



Harter Secrest & Emery LLP

ATTORNEYS AND COUNSELORS

**SUMMARY OF KEY FEDERAL AND STATE  
CIVIL AND CRIMINAL ENVIRONMENTAL  
LAWS AND REGULATIONS**

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# FEDERAL

## ■ CIVIL

- Hazardous/Toxic Substances



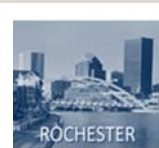
# FEDERAL CIVIL – HAZARDOUS/TOXIC SUBSTANCES

Legislation	Cite	Brief Description	Governing Regulations
CERCLA (Comprehensive Environmental Response, Compensation & Liability Act) (“Super fund”)	42 U.S.C. §9601, <i>et seq.</i>	Governs the clean-up of inactive hazardous waste sites and imposes liability. Liability scheme is strict and joint and several; there are limited defenses. Also requires reporting of unpermitted releases (i.e., spills) of hazardous substances in excess of threshold quantities.	40 C.F.R. Part 30 <i>et seq.</i>



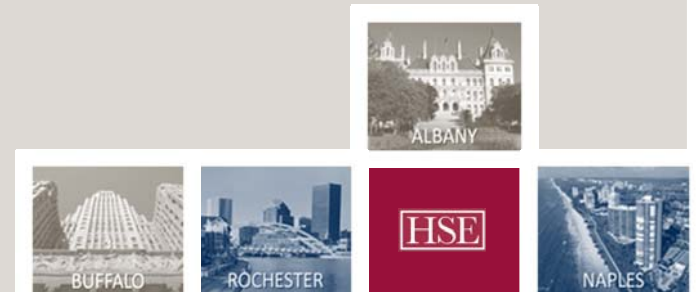
# FEDERAL CIVIL – HAZARDOUS/TOXIC SUBSTANCES

Legislation	Cite	Brief Description	Governing Regulations
EPCRA/SARA Title, III (Emergency Planning & Community Right-to-Know Act)	42 U.S.C. §11001, <i>et seq.</i>	Requires all facilities that manufacture, store, use, or release hazardous substances in excess of threshold quantities to notify and/or file forms with federal, state and local emergency planning organizations. Requires spill notification, annual inventory information & chemical release (permitted or otherwise) information.	40 C.F.R. Parts 302, 355, 370 & 372 & 29 C.F.R. Part 1910 (OSHA Hazard Communications Standards)



# FEDERAL CIVIL – HAZARDOUS/TOXIC SUBSTANCES

Legislation	Cite	Brief Description	Governing Regulations
RCRA (Resource Conservation & Recovery Act)	42 U.S.C. §6901, <i>et seq.</i>	Creates “cradle-to-grave” system for regulation of the generation, transportation and disposal of hazardous waste. Also governs underground storage tanks and spills.	40 C.F.R. Parts 124 260-272



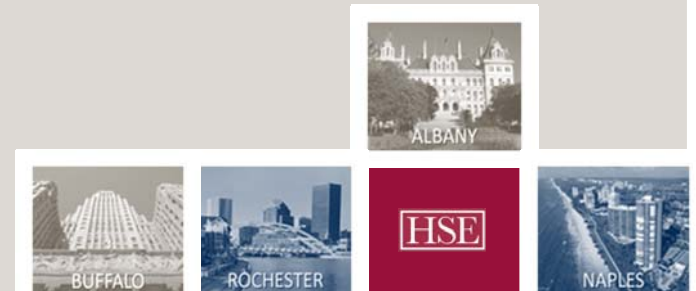
# FEDERAL CIVIL – HAZARDOUS/TOXIC SUBSTANCES

Legislation	Cite	Brief Description	Governing Regulations
TSCA (Toxic Substances Control Act)	15 U.S.C. §2601 <i>et seq.</i>	Regulates the manufacture and commercial distribution of hazardous chemical products. TSCA screens new chemicals; tests identified chemicals; & limits chemicals proven to pose risks. Can ban, limit, prohibit uses; require labels/warnings and limit disposal. TSCA alone regulates PCB's.	40 C.F.R. Part 761



# FEDERAL CIVIL – HAZARDOUS/TOXIC SUBSTANCES

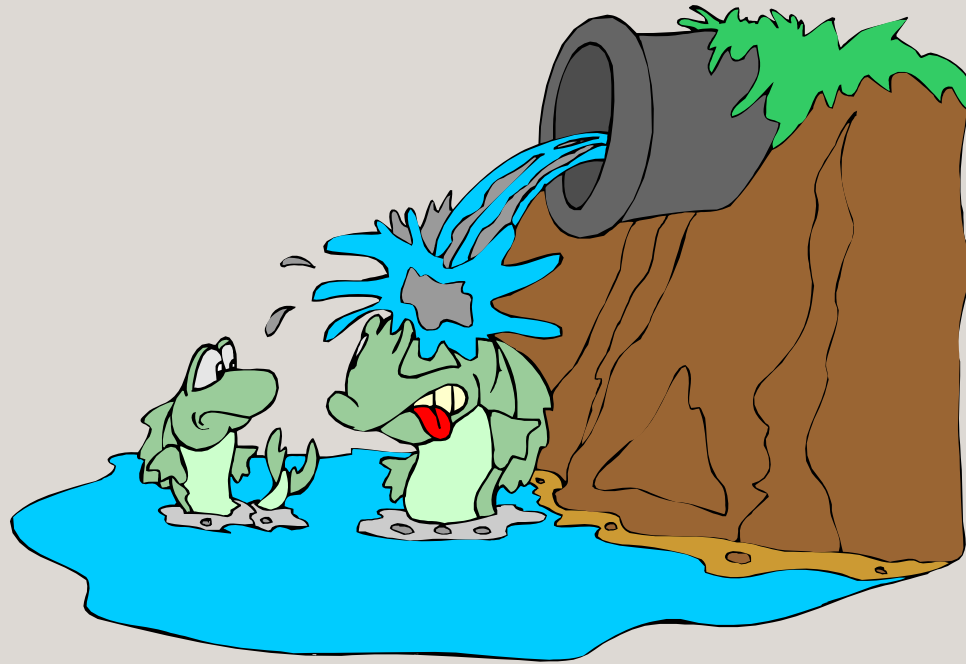
Legislation	Cite	Brief Description	Governing Regulations
HMTA (Hazardous Materials Transportation Act)	49 U.S.C. §§1801-1907	Regulates transportation of hazardous materials (including asbestos). Governs carriers, container manufacturers & shippers; labeling; packaging; and spills.	49 C.F.R. Part 107



# FEDERAL

## ■ CIVIL

### — Protection of Waters



# FEDERAL CIVIL – PROTECTION OF WATERS

Legislation	Cite	Brief Description	Governing Regulations
CWA (Clean Water Act)	33 U.S.C. §1251, <i>et seq.</i> & 33 U.S.C. §1342	Governs unpermitted discharge of any pollutant into the waters of U.S. from any vessel or facility; requires reporting of spills.	33 C.F.R. 230 & 320-25



# FEDERAL CIVIL – PROTECTION OF WATERS

Legislation	Cite	Brief Description	Governing Regulations
RHA (Rivers & Harbors Act)	33 U.S.C. §401, <i>et seq.</i>	Governs obstructions of or discharges into navigable waters of the U.S.	33 C.F.R. Parts 320, 321, 325, 326 & 329



# FEDERAL CIVIL – PROTECTION OF WATERS

Legislation	Cite	Brief Description	Governing Regulations
SDWA (Safe Drinking Water Act)	42 U.S.C. §201, <i>et seq.</i>	Regulates quality of drinking water supplies; prohibits federal funding for projects EPA determines may contaminate sole source aquifers; establishes standards for contaminants in public water systems; and prohibits unpermitted underground injection of fluids.	40 C.F.R. Part 141



# FEDERAL CIVIL – PROTECTION OF WATERS

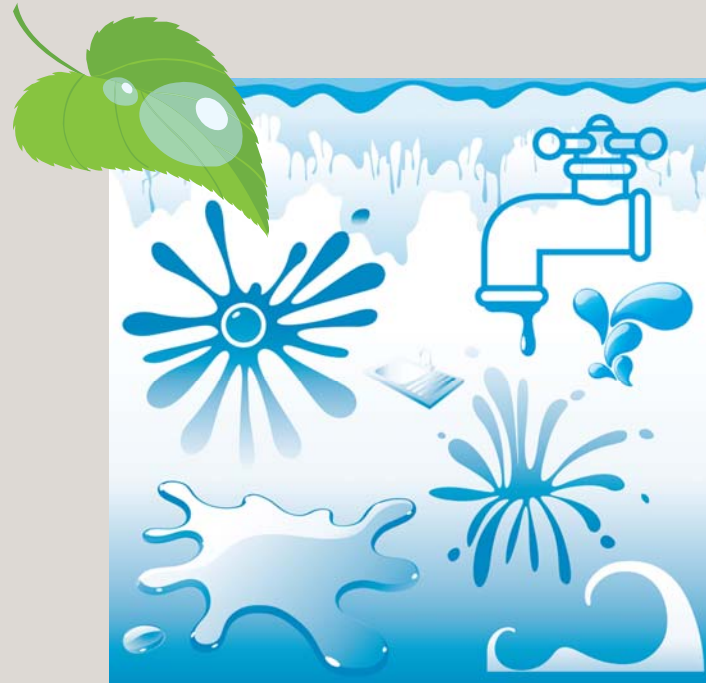
Legislation	Cite	Brief Description	Governing Regulations
Ocean Dumping Act (Marine Protection, Research & Sanctuaries Act)	33 U.S.C. §1401 <i>et seq.</i>	Governs dumping of material into ocean waters.	40 C.F.R. Part 220



# FEDERAL

## ■ CIVIL

### – Management of Water Development



ALBANY



BUFFALO



ROCHESTER



HSE



NAPLES

# FEDERAL CIVIL – MANAGEMENT OF WATER DEVELOPMENT

Legislation	Cite	Brief Description	Governing Regulations
<p>CZMA (Coastal Zone Management Act)</p>	<p>16 U.S.C. §1451-64</p>	<p>Restricts development on or near coastal zones/areas adjacent to interstate waters. Permits for projects affecting coastal zone areas are issued by Army Corps with state approvals. Delegated NY CZMA plan is managed by Department of State.</p>	<p>15 C.F.R. Part 930</p>



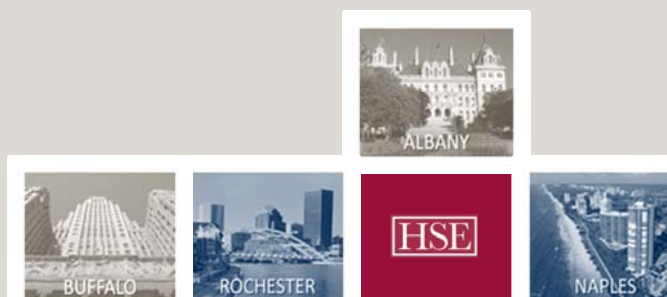
# FEDERAL CIVIL – MANAGEMENT OF WATER DEVELOPMENT

Legislation	Cite	Brief Description	Governing Regulations
Wetlands	Executive Order 11990; RHA, 33 U.S.C. §403 & CWA, 33 U.S.C. §1344	Restricts development at or adjacent to delineated wetlands. RHA §10 regulates any structure or activity that affects the course, location, condition or capacity of navigable water, including wetlands. CWA §404 governs the discharge of dredged or fill material into the waters of the U.S., including wetlands.	Federal Manual for Identifying & Delineating Jurisdictional Wetlands.



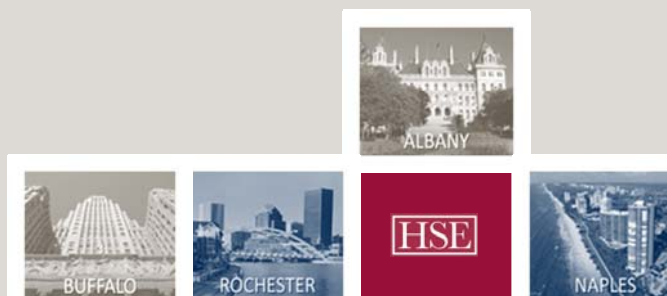
# FEDERAL CIVIL – MANAGEMENT OF WATER DEVELOPMENT

Legislation	Cite	Brief Description	Governing Regulations
Floodplains	Executive Order 11988 (42 F.R. 26951)	Restricts development on any floodplain. Directs avoidance of impact where practicable alternative.	44 C.F.R. Part 60



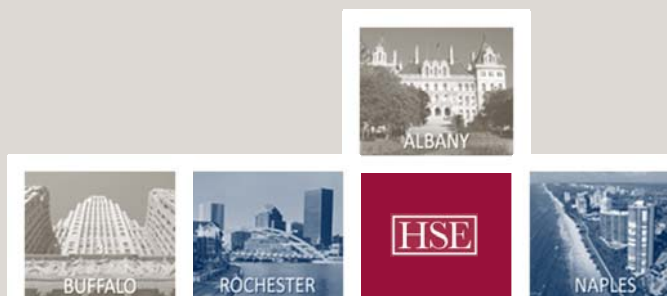
# FEDERAL CIVIL – MANAGEMENT OF WATER DEVELOPMENT

Legislation	Cite	Brief Description	Governing Regulations
COBRA (Coastal Barrier Resource Act)	16 U.S.C. §3501, <i>et seq.</i>	Prohibits federal flood insurance & other federal assistance for actions/developments impacting coastal barrier resources.	



# FEDERAL CIVIL – MANAGEMENT OF WATER DEVELOPMENT

Legislation	Cite	Brief Description	Governing Regulations
Wild & Scenic River Act	16 U.S.C. §§1271, <i>et seq.</i>	Restricts development on or adjacent to wild & scenic rivers.	36 C.F.R. §297.1 & 43 C.F.R. Subchapter H



# FEDERAL

## ■ CIVIL

### — Air Quality



# FEDERAL CIVIL – AIR QUALITY

Legislation	Cite	Brief Description	Governing Regulations
CAA (Clean Air Act)	42 U.S.C. §7400, <i>et seq.</i>	Governs emission of hazardous air pollutants, state implementation plans, stationary sources standards, asbestos removal, & ambient air quality standards & impacts.	40 C.F.R. Parts 50, 51, 52 & 61.



# FEDERAL CIVIL – AIR QUALITY

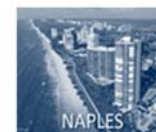
Legislation	Cite	Brief Description	Governing Regulations
Asbestos	CAA 42 U.S.C. §7412; 15 U.S.C. §§2607, <i>et seq.</i> ; 15 U.S.C. §2605(a); HMTA, 49 U.S.C. §§1801-1812	OSHA regulations establish acceptable levels of airborne asbestos for employees. NESHAPS establish standards for manufacturing, spraying, or fabricating asbestos-containing products and governs demolition of buildings containing asbestos. TSCA has 3 stage ban on asbestos products. HMTA governs transport of asbestos.	40 C.F.R. Part 61 (NESHAPS); 29 C.F.R. 1910.1001 (OSHA); Also see Workers Right-to-Know infra; 40 C.F.R. §763; 49 C.F.R. §3386



# FEDERAL

## ■ CIVIL

- Workers' Right-to-Know



# FEDERAL CIVIL – WORKERS’ RIGHT-TO-KNOW

Legislation	Cite	Brief Description	Governing Regulations
OSHA Hazard Communications		OSHA regulations require the evaluation of potential chemical hazards to employees and communication of those hazards to the employee. Must develop written communication program; warning labels; prepare MSDS's and distribute; and conduct employee training programs.	29 C.F.R. Part 1910.1200



# FEDERAL

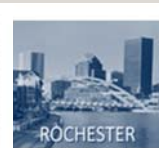
## ■ CIVIL

### — Tanks



# FEDERAL CIVIL – TANKS

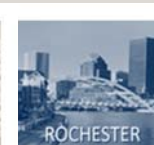
Legislation	Cite	Brief Description	Governing Regulations
RCRA	42 U.S.C. §§6921, <i>et seq.</i>	Regulates underground storage tanks used to store hazardous substances or petroleum. Requires notice of all UST's; leak prevention through inspection, maintenance and operating guidelines; monitoring, reporting and remediating of tank spills or releases; and financial surety. Also establishes standards for tank repairs and new tank construction.	40 C.F.R. Parts 260 to 65, 270 to 71, and 280



# FEDERAL

## ■ CIVIL

### — Historic Preservation



# FEDERAL CIVIL – HISTORIC PRESERVATION

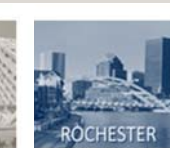
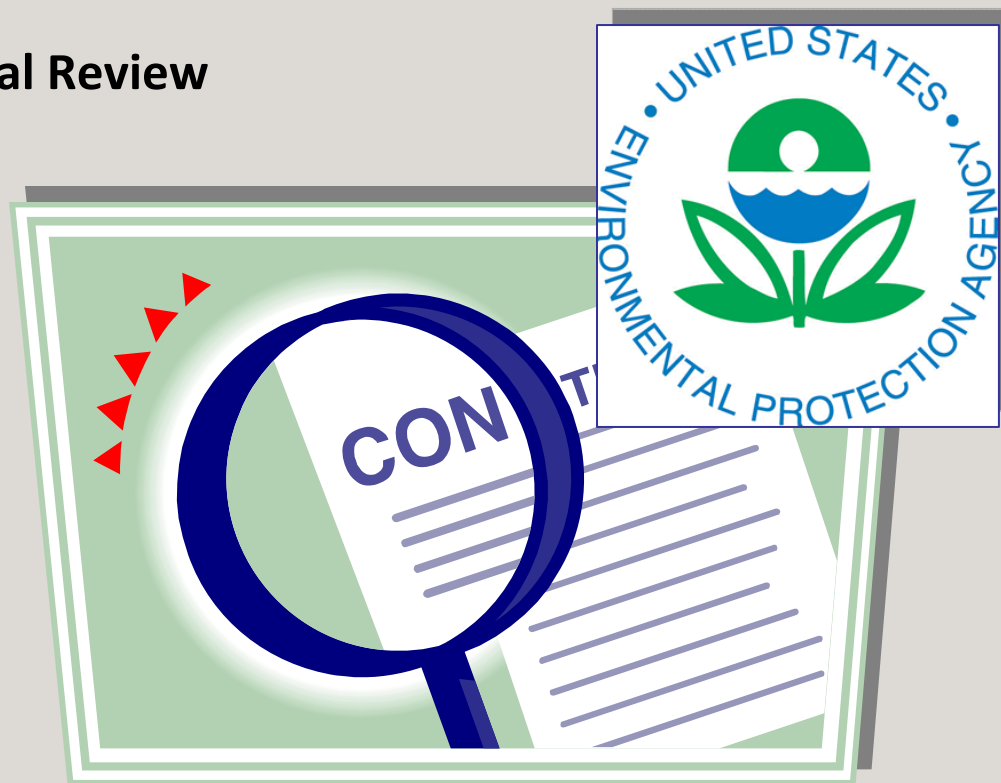
Legislation	Cite	Brief Description	Governing Regulations
<p>NHPA (National Historic Preservation Act)</p>	<p>16 U.S.C. §470f <i>et seq.</i> and Chapter 1A generally</p>	<p>Protects sites, buildings and objects of national, state, or local historic or cultural significance that are listed on or eligible for listing on the National Registry of Historic Places. Must identify and mitigate impacts of any proposed project on these places.</p>	<p>36 C.F.R. Parts 60, 61, 63, 65 and 800</p>



# FEDERAL

## ■ CIVIL

### — Environmental Review



# FEDERAL CIVIL – ENVIRONMENTAL REVIEW

Legislation	Cite	Brief Description	Governing Regulations
NEPA (National Environmental Policy Act)	41 U.S.C. §4331, <i>et seq.</i>	Requires environmental review of all federal agency actions or approvals that may significantly affect the environment. Must take “hard look” at environmental impacts of projects and alternatives.	40 C.F.R. Part 1500



# FEDERAL

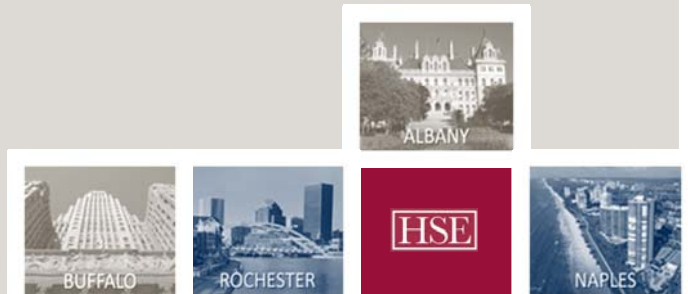
## ■ CIVIL

— Pesticides



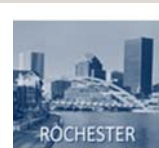
# FEDERAL CIVIL – PESTICIDES

Legislation	Cite	Brief Description	Governing Regulations
FIFRA (Federal Insecticide, Fungicide and Rodenticide Act)	7 U.S.C. §136, <i>et seq.</i>	Governs registration, labeling, and use of pesticides	40 C.F.R. Parts 152-86



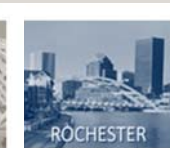
# FEDERAL

## ■ CRIMINAL



# FEDERAL CRIMINAL

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Penalties</b>
CERCLA	42 U.S.C. §9603(b)	Sanctions failure to notify EPA of release of hazardous substances into the environment and submitting false or misleading information on the releases.	40 C.F.R. Part 302	Felony with 3 yrs. maximum and/or fines established by Alternatives Fines Act 18 U.S.C. §3571 (“AFA”). 5 yrs. Maximum for 2d offense.



# FEDERAL CRIMINAL

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Penalties</b>
EPCRA §304	42 U.S.C. §11004	Sanctions failure to immediately notify of chemical releases of reportable quantities of hazardous or extremely hazardous substances.	40 C.F.R. §355.40	Felony with 5 yrs. maximum and/or \$50,000



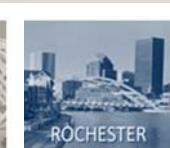
# FEDERAL CRIMINAL

Legislation	Cite	Brief Description	Governing Regulations	Penalties
RCRA	42 U.S.C. §6928(c), (d) & (e)	Sanctions transport of hazardous waste to unpermitted facility; treating, storing or disposing without a permit; omission/false/destruction of records; transport without manifest; export without EPA consent; knowing endangerment during transport, storage, treatment or disposal of hazardous waste.	40 C.F.R. Part 261	Felonies with maximum of 2-15 yrs and/or AFA fines. Penalties doubled for 2d conviction.



# FEDERAL CRIMINAL

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Penalties</b>
TSCA	15 U.S.C. §2615(b)	Sanctions failure to place warnings on PCB containers; improper disposal of PCB articles, soil or debris; improper storage of or storage of PCB for over 1 yr.; failure to date PCB containers; failure to maintain records.	40 C.F.R. Part 761	Misdemeanors with maximum of 1 yr. and/or AFA fines.



# FEDERAL CRIMINAL

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Penalties</b>
HMTA	40 U.S.C. §1809(b)	Sanctions willful violations of HMTA.	49 C.F.R. Part 107.333	Felonies with maximum of 5 yrs. and/or \$25,000.



# FEDERAL CRIMINAL

Legislation	Cite	Brief Description	Governing Regulations	Penalties
CWA	33 U.S.C. §§1319(c) and 1321(b)(5)	Sanctions unpermitted discharge of pollutants into waters of U.S. or POTW or discharge of pollutant that would cause personal injury, property damage or cause POTW to violate its permit; sanctions knowing endangerment, false statements or tampering with monitoring device and failure to notify EPA of oil or hazardous substance discharge/spill.	40 C.F.R. Part 401	<p>Misdemeanors for negligent, violations with maximum 1 yr. and/or AFA fines.</p> <p>Felonies for knowing violations with maximum 3-15 yrs. and/or AFA fines.</p> <p>Penalties doubled on 2d conviction.</p>



# FEDERAL CRIMINAL

Legislation	Cite	Brief Description	Governing Regulations	Penalties
RHA	33 U.S.C. §§406, 407 & 411	Sanctions unauthorized dams, dikes, piers, breakwater jetties, excavation, fill or alteration of any navigable water of the U.S. or discharging refuse into or depositing material on the banks of these waters.	33 C.F.R. Parts 320, 321, 325, 326, and 329.	Misdemeanors with maximum 1 yr. and/or AFA fines. Violations of §407 (discharge of refuse) has mandatory minimum of 30 days and \$500. Violations of §406 (illegal bridges, piers, etc.) have mandatory minimum of \$500.



# FEDERAL CRIMINAL

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Penalties</b>
Ocean Dumping Act	33 U.S.C. §§1411 & 1415(b)	Sanctions transport of any material for dumping into ocean waters.	40 C.F.R. Part 220	Misdemeanors with maximum 1 yr. and/or AFA fines.



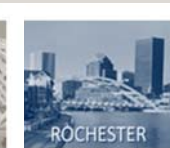
# FEDERAL CRIMINAL

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Penalties</b>
CAA	42 U.S.C. §7413(c)	Sanctions operation of stationary sources in violation of standards; releases of hazardous air pollutants; improper asbestos removal; false statements/ tampering with monitoring device.	40 C.F.R. Part 61	Misdemeanors with maximum 1 yr. and/or AFA fines; Penalties doubled on 2d conviction.



# FEDERAL CRIMINAL

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Penalties</b>
OSHA	29 U.S.C. §666; 18 U.S.C. § §1001 and 1505	Sanctions willful violation causing death; false statements; unauthorized advance notice of inspection.	29 C.F.R. Parts 654, 1904 and 1910	Felonies and misdemeanors.



# FEDERAL CRIMINAL

Legislation	Cite	Brief Description	Governing Regulations	Penalties
FIFRA	7 U.S.C. §§136; and 1361	Sanctions distribution/sale/shipment of unregistered pesticides; removal/alteration of labels; failure to maintain records or allow inspection; improper use of pesticide; and use of cancelled pesticide.	40 C.F.R. Parts 162 and 165	Misdemeanors with maximum 1 yr. for commercial type violators and maximum 30 days for private-type violators and/or AFA fines.



# FEDERAL CRIMINAL

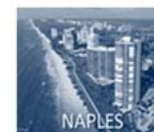
<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Penalties</b>
Title 18 Offenses	18 U.S.C. §371, §1001, §1341, §1343, §1963, §287, §1623, §1503	Conspiracy False Statements Mail Fraud Wire Fraud RICO False Claim Perjury Obstruction of Justice		



# STATE

## ■ CIVIL

- Hazardous/Toxic Substances



# STATE CIVIL – HAZARDOUS/TOXIC SUBSTANCES

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
NYS Super fund	ECL Article 27, Title 13; ECL Article 27, Title 27	Governs identification, listing, delisting, use & remediation of inactive hazardous waste sites.	6 NYCRR Part 375 and 595	CERCLA



# STATE CIVIL – HAZARDOUS/TOXIC SUBSTANCES

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Hazardous Waste Management system	ECL Article 27, Title 9, ECL Article 71, Title 27	Governs, identification, generation, transportation, treatment, storage & disposal of hazardous wastes. Provides standards for closure & post-closure care; enforcement.	6 NYCRR, Parts 370-374	RCRA



# STATE CIVIL – HAZARDOUS/TOXIC SUBSTANCES

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
Hazardous Waste Transportation	ECL Article 27, Title 9; ECL Article 71, Title 27	Governs manifests, recordkeeping, permits, & financial security for transportation of hazardous wastes.	6 NYCRR §372, 3	HMTA



# STATE

## ■ CIVIL

### — Solid Waste



# STATE CIVIL – SOLID WASTE

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
Solid Waste Management Plan	ECL Article 27, Title 1; ECL Article 71, Title 27	Imposes specific planning & resource separation obligations on municipalities & landfills. Establishes hierarchy of preferred management practices.	None	SARA, 42 USC §9604(c)(9)



# STATE CIVIL – SOLID WASTE

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
Solid Waste Management Facilities	ECL Article 27, Title 7; ECL Article 71, Title 27	Regulates solid waste management facility siting, permits, design, construction, maintenance, closure & post-closure care (includes demolition debris sites).	6 NYCRR Part 360	None



# STATE CIVIL – SOLID WASTE

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
Incinerating/ Recycling/ Composting facilities	ECL Article 27, Title 7; ECL Article 71, Title 27	Governs siting, permits, design, construction & operation of incinerators, and recycling and composting facilities.	6 NYCRR Part 360	RCRA



# STATE CIVIL – SOLID WASTE

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
Waste Transporters	ECL Article 27, Title 3; ECL Article 71, Title 27	Governs transport of certain “regulated” solid waste such as sewage, septage, sludge, waste oil, and industrial commercial waste including hazardous wastes.	6 NYCRR Part 364	None



# STATE

## ■ CIVIL

### — Protection of Waters



# STATE CIVIL – PROTECTION OF WATERS

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
State Pollutant Discharge Eliminating System	ECL Article 17, Title 8; ECL Article 71, Title 14	Requires SPDES permit for any discharge of a pollutant from a point source into the waters of the state.	6 NYCRR Part 750-758	CWA



# STATE CIVIL – PROTECTION OF WATERS

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
Water Permits	ECL Article 5/ Navigation Law §120; ECL Article 71, Title 11	Requires permits for disturbance of stream beds, construction of dams, excavation or fill in waters or wetlands.	6 NYCRR Part 608	RHA



# STATE CIVIL – PROTECTION OF WATERS

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
Wellhead Protection Program	Proposed 5/90	Intended to satisfy SDWA requirements to protect wellhead areas from contaminants.	None	SDWA



# STATE CIVIL – PROTECTION OF WATERS

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
Oil Spill Prevention, Control & Compensation	Navigation Law §170, et seq.	Prohibits discharge of oil; licenses refineries, storage & transfer terminals & vessels; regulates notice of spills, clean-ups & provides for state clean-up & cost recovery.	6 NYCRR Parts 610, 611 & 17 NYCRR Parts 30 to 33	33 U.S.C. §1321



# STATE CIVIL – PROTECTION OF WATERS

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
General Water Pollution Control	ECL Article 17	Governs discharge of oil, sewage, refuse & other wastes in waters of New York.	6 NYCRR Chapter X and Part 71 and 17 NYCRR Part 51	CWA



# STATE

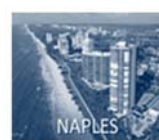
## ■ CIVIL

### – Management of Water Development



# STATE CIVIL – MANAGEMENT OF WATER DEVELOPMENT

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
CZMA	16 USC §1451, et seq.	Restricts development on or near coastal zones/areas of interstate waters. Permits for projects affecting coastal zone are issued by U.S. Army Corps but require state to certify proposed federal license or permit is consistent with state's coastal zone management program.	15 C.F.R. Part 930	State delegated program under CZMA.



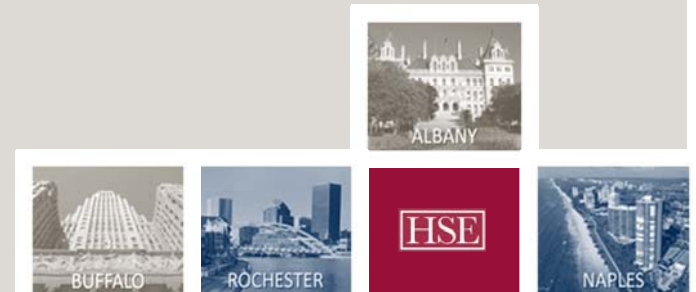
# STATE CIVIL – MANAGEMENT OF WATER DEVELOPMENT

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Freshwater Wetlands	ECL Article 24; ECL Article 71, Title 23	Restricts development at or adjacent to freshwater wetlands. Governs identification, mapping, permitting & enforcement related to wetlands (12.4 acres or more or of unusual local importance) & activities related to draining, dredging, filling, erecting structures upon or in, & pollution of wetlands. Provides for local regulation (12.4 acres or less) and creates appeals board.	6 NYCRR Part 662 to 665	33 USC §403 & §1344



# STATE CIVIL – MANAGEMENT OF WATER DEVELOPMENT

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Tidal Wetlands	ECL Article 25; ECL Article 71, Title 25	Restricts development at or adjacent to tidal wetlands. Governs identification, mapping, permitting & enforcement related to tidal wetlands.	6 NYCRR Part 660 to 661	33 USC §403 & §1344



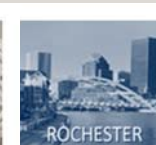
# STATE CIVIL – MANAGEMENT OF WATER DEVELOPMENT

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Public Lands Law	Public Lands Law §3 & §75	Governs state granting of title, easements or leases to all lands under the waters of the State of New York.	9 NYCRR Parts 270 & 271	Generally, Public Lands, 43 USC Chapter 22



# STATE CIVIL – MANAGEMENT OF WATER DEVELOPMENT

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Navigation Law	Navigation Law Article 3 & §120	Governs placement of fill or excavation of navigable waters; prohibits construction of wharves, docks, dams, roads, etc. that may interfere with navigation and prohibits pollution ( <i>see supra</i> )	17 NYCRR Part 51	CWA & RHA



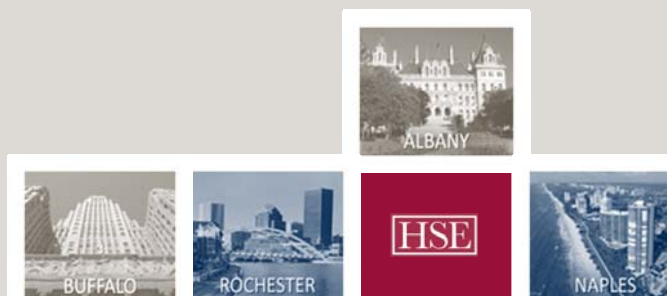
# STATE CIVIL – MANAGEMENT OF WATER DEVELOPMENT

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Public Trust Doctrine	Common Law	Restricts waterside development which may affect public's right of access to and use of navigable waters. Common law doctrine vesting state with title to navigable waters in trust for people & establishing public's right of access to & use of waters, shorelands & submerged lands. Restricts state's ability to transfer lands & approve waterside development.	None	See, for example, <i>Phillips Petroleum Co. v. Miss.</i> , 484 U.S. 469 (1988) & <i>Shively v. Bowlby</i> , 152 U.S. 548 (1894).



# STATE CIVIL – MANAGEMENT OF WATER DEVELOPMENT

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Wild Scenic & Recreational Rivers System	ECL §15-2701; et seq.	Restricts development at or near designated rivers.	6 NYCRR Part 666	16 USC §1271, et seq.



# STATE

- CIVIL

- Air Quality



# STATE CIVIL – AIR QUALITY

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Air Pollution Control Act	ECL Article 19; ECL Article 71, Title 21	Effectuates state’s responsibility under CAA to assure air quality. Governs permits, emissions & performance standards & construction of all air emission sources. Also governs hazardous emissions, burning of hazardous waste & vehicular air pollution control.	6 NYCRR Chapter III & DEC’s Air Guide I	CAA



# STATE CIVIL – AIR QUALITY

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
Noise	ECL Article 19 (see §19-0107(2))	Regulates noise from heavy machinery & motor vehicles, highway operations & other motor vehicles.	6 NYCRR Parts 450-454	42 USC §4901, et seq.



# STATE CIVIL – AIR QUALITY

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
Asbestos	Labor Law Article 30	Regulates licensing of asbestos contractors; certification of asbestos workers; & removal of asbestos. Disposal of asbestos is also governed by 6 NYCRR Part 360.	10 NYCRR Part 73; 12 NYCRR Part 56 & 6 NYCRR Part 350	CAA; TSCA; HMTA; OSHA



# STATE

## ■ CIVIL

### – Tanks



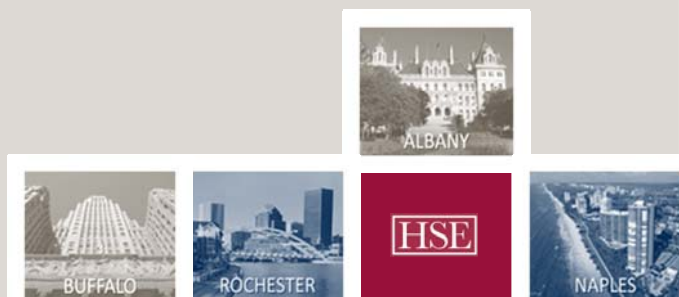
# STATE CIVIL - TANKS

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Petroleum Bulk Storage Program	ECA Article 17, Title 10; ECL Article 71, Title 19	Regulates registration, inspection, testing, retrofitting, modifying & repairing petroleum bulk storage tanks between 1,100 and 400,000 gallons. Also establishes construction standards & requires spill notification.	6 NYCRR Parts 612-614	RCRA



# STATE CIVIL - TANKS

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
Major Petroleum Storage Facility Program	ECL Article 17, Title 10; Navigation Law Article 12	Regulates registration, inspection; & testing of petroleum tanks in excess of 400,000 gallons. Establishes construction standards & requires spill notification.	6 NYCRR Parts 113 & 614	RCRA



# STATE CIVIL - TANKS

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Chemical Bulk Storage Act	ECL Articles 37 & 40; ECL Article 71, Title 37	Regulates all tanks holding more than 185 gallons of hazardous substances. Requires registration, inspection & testing; notification of spills; & corrective actions. Sets construction standards.	6 NYCRR Parts 595-597	RCRA



# STATE

## ■ CIVIL

### — Historic Preservation



# STATE CIVIL – HISTORIC PRESERVATION

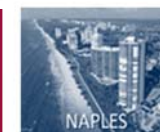
Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Historic Preservation Program	PRHP Article 14. Also see ECL Article 8	Requires survey, registration and preservation of historic sites. Provides for OPRHP to comment on all agency activities which may effect property on national or state register or eligible for listing on state register. Agencies must mitigate impacts.	9 NYCRR Parts 426-428	National Historic Preservation Act, 16 USC §470, et seq. and Chapter 1A generally



# STATE

## ■ CIVIL

### — Environmental Review



# STATE CIVIL - ENVIRONMENTAL REVIEW

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
State Environmental Quality Review Act (SEQRA)	ECL Article 8	Requires all state agencies to conduct environmental review of actions they propose to undertake, fund or approve which may have a significant effect on the environment.	6 NYCRR Part 617	NEPA



# STATE

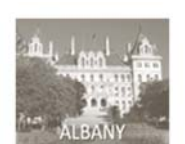
## ■ CIVIL

### — Pesticides



# STATE CIVIL - PESTICIDES

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Pesticides	ECL Article 33; ECL Article 71, Title 29	Regulates testing and registration of pesticides; banning of pesticides; pesticide applications; aquatic use pesticides; commercial & purchase permits for restricted use pesticides & lawn care notification.	6 NYCRR Parts 320-329	FIFRA



# STATE

## ■ CIVIL

### — Medical Waste



# STATE CIVIL – MEDICAL WASTE

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
DEC Medical Waste Regulations	ECL Article 27, Title 15; ECL §19-306; ECL Article 71, Title 44; Also see Transportation Law §14-f	Creates “cradle-to-grave” medical waste tracking system for regulation of transport, storage, treatment & disposal of medical waste and sets performance standards for medical waste incinerators. Requires manifests; segregation; labeling; special packaging & storing; and spill reporting.	6 NYCRR Parts 219, 360 & 364; 17 NYCRR Part 507	RCRA; HMTA; OSHA; 42 USC §6901 et seq. (Medical Waste Tracking Act); CERCLA; Clinical Lab Improvement Act, 42 USC §263(a); 42 CFR Part 72 (Quarantine regulations)



# STATE CIVIL – MEDICAL WASTE

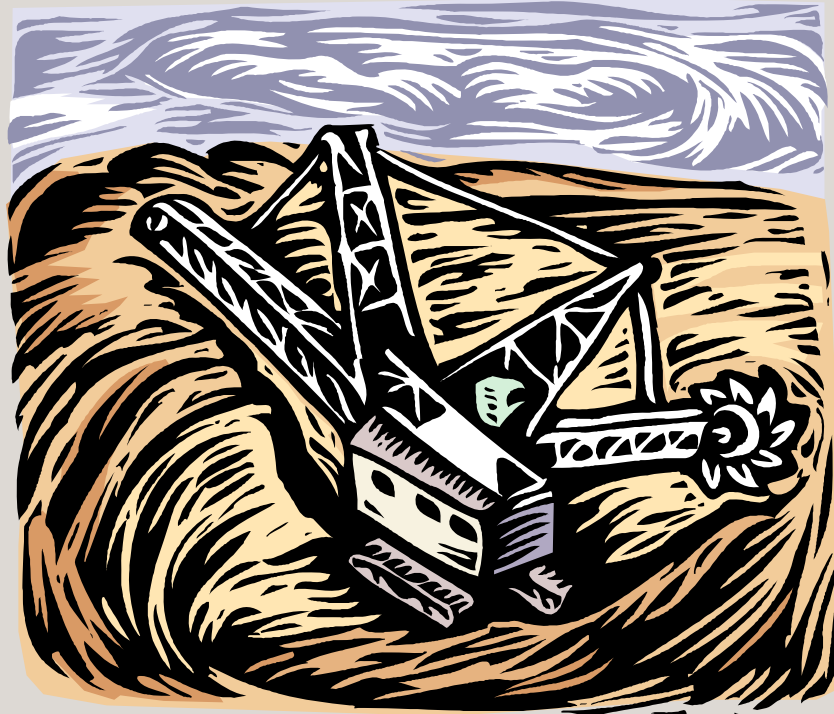
<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
DOH Medical Waste Regulations	Public Health Law Article 13, Title XIII	Regulates storage, treatment & disposal of medical waste which takes place on-site at hospitals, labs, nursing homes, health care facilities and others.	10 NYCRR Part 70	See above



# STATE

## ■ CIVIL

### — Mining



# STATE CIVIL – MINING

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
Mined Land Reclamation Law (MLRL)	ECL Article 23, Title 27; ECL Article 71, Title 13	Regulates mines producing more than 1,000 tons of minerals per year by requiring permits, a mine land-use plan, a reclamation plan, and a reclamation bond.	6 NYCRR Parts 420-426	30 USC §1201; et seq.



# STATE

## ■ CIVIL

### — Oil and Gas



# STATE CIVIL – OIL AND GAS

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Mineral Resources (Oil & Gas)	ECL Article 23, Titles 5, 7, 9, 11, 13, 17, & 19; ECL Article 71, Title 13	Regulates drilling permits, plugging & abandonment, reporting, bonding, gas storage, gas leasing, & gas storage, and all permitting, transporting & inspections.	6 NYCRR Parts 551-558	30 USC §71, et seq. 15 USC §3301, et seq.



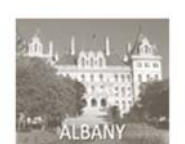
# STATE

## ■ CRIMINAL



# STATE CRIMINAL

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Hazardous Wastes	ECL §§237-0913 & 914 & §71-2721	Sanctions unlawful possessions, unlawful disposal & unlawful dealing of hazardous wastes.	6 NYCRR Parts 370-73	D felonies to misdemeanors with Penal Law jail, fines (\$10,000 to \$200,000) double amount of gain, cost of proper disposal and/or environmental restoration.



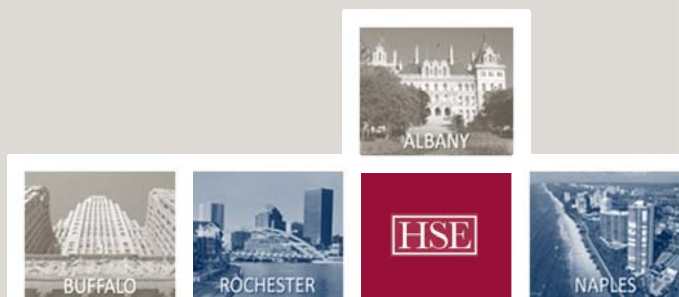
# STATE CRIMINAL

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Hazardous Substances	ECL §§71-2702(10) & 2710-14	Sanctions mismanagement of hazardous substances (includes hazardous wastes & list at ECL §37-0103 & 6 NYCRR §597.2) See particularly endangering offenses.	6 NYCRR §597.2	C felonies to B misdemeanors. See penalties above.



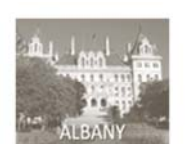
# STATE CRIMINAL

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
Hazardous Wastes Umbrella	ECL §71-2705(2)	Sanctions any violation of law, regulation or commissioner's order related to hazardous waste disposal, a hazardous waste facility & inactive hazardous waste sites.	6 NYCRR Parts 370-73	Misdemeanors with maximum of 1 yr. and/or \$25,000 fine. Double for 2nd offense.



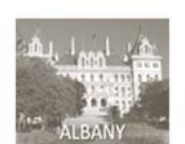
# STATE CRIMINAL

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Solid Waste Facilities & Transporters	ECL §71-2703 & ECL Article 27, Titles 3 & 7	Sanctions violations of solid waste facility or transportation statutes and regulations or orders of the commissioner.	6 NYCRR Part 360	Violation with fine of at least \$1,000 but not more than \$2,500 per day of violation. Construction & debris violators liable for additional \$5,000 per day civil penalty.



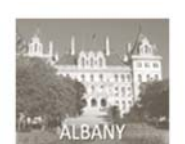
# STATE CRIMINAL

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
SPDES (Water Quality & Illegal Point Sources)	ECL §§17-0501, 0503, 0505, 0507, 0701, 0803, 0807 & 71-1933	Sanctions discharges of organic or inorganic matter into state waters which cause contravention of water quality standards. Also sanctions use of an outlet or point source discharge without a valid SPDES permit.	6 NYCRR Parts 650-800	Misdemeanors with maximum of 1 yr. and/or fine between \$2,500 - \$25,000 for each day of violations. Doubled for 2nd violation.



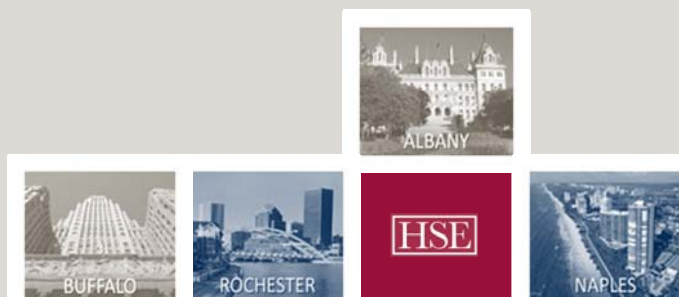
# STATE CRIMINAL

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
SPDES (Discharges to POTW)	ECL §71-1933(4) & (5)	Sanctions discharge of pollutants or hazardous substances into POTW without a permit or discharges which cause the POTW to exceed its SPDES permit limits.	6 NYCRR Parts 650-800	C felony to A misdemeanor with fines of \$2,500 to \$500,000 and/or \$5,000 to \$50,000 per day of violation and/or Penal Law jail.



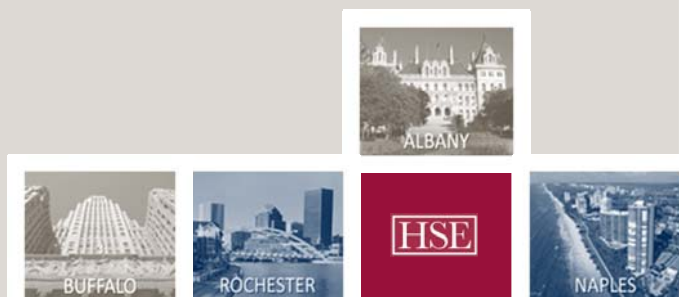
# STATE CRIMINAL

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
SPDES (False filing/tampering with monitor device)	ECL §§71-1933(8)(B)(III), 1933(7) & 1935 and Penal Law Article 175	Sanctions submission of false information to DEC or intentionally tampering with or rendering inaccurate a monitoring device.	6 NYCRR Parts 650-800	E felony with \$60,000 per day fine and/or Penal Law jail.



# STATE CRIMINAL

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
SPDES Umbrella	ECL §§71-1933(3)-(9)	Sanctions any violation of any statute rule, regulation, or final administrative order concerning permits, certificates or federal or state pretreatment programs.	6 NYCRR Parts 650-800	C felony to a misdemeanor with fines and/or jail discussed above.



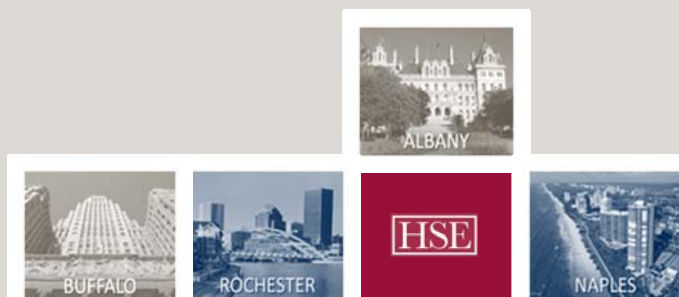
# STATE CRIMINAL

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
Water Permits	ECL Article 15	Sanctions interference with drainage, reservoir & water improvement works and any rule, regulation, statute or permit related to Article 15.	6 NYCRR Part 608	Violation with maximum of \$1,000 fine



# STATE CRIMINAL

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
Petroleum Spills (Bulk Storage Petroleum Act)	ECL §§17-1001 ET seq. & 71- 1933	Sanctions knowing failures to report petroleum spills to DEC.	6 NYCRR §613, 8	Misdemeanor with maximum 1 yr. And/or \$2,500 to \$25,000 per day. Doubled on 2nd conviction.



# STATE CRIMINAL

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
Liquid Spills	ECL §§1743 & 1943	Sanctions any person who possesses more than 1,100 gallons of any liquid and fails to notify DEC of spills that would likely cause pollution, no matter how small spill is.	6 NYCRR Parts 613 & 614	Misdemeanor with maximum 1 yr. And/or \$2,500



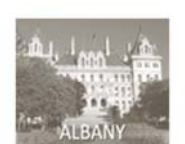
# STATE CRIMINAL

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
Navigation Law	Navigation Law §32-C	Sanctions discharges into waters or construction of structures that interfere with navigation.	17 NYCRR §51.12	Misdemeanor with Penal Law penalties



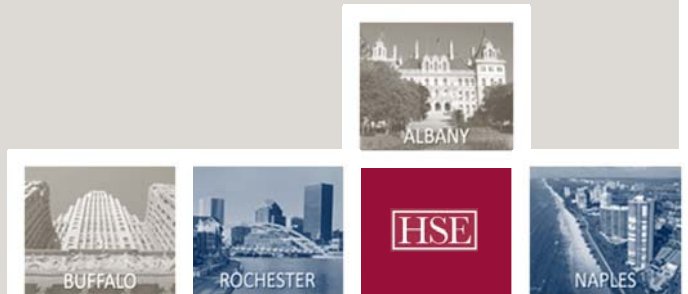
# STATE CRIMINAL

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Freshwater Wetlands	ECL §71-2303	Sanctions any violation of Freshwater Wetlands statute, rules, regulations, order or permit or local law.	6 NYCRR Parts 661-664	Violation for 1st offense with fine of \$500 - \$1,000; misdemeanor for 2nd offense with fine of \$1,000 - \$2,000 and/or 6 mos. May order restoration instead.



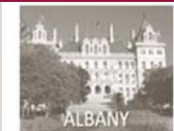
# STATE CRIMINAL

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
Tidal Wetlands	ECL §71-2503	Sanctions any violation of Tidal Wetlands statute.	6 NYCRR Part 661	Same as Freshwater Wetlands penalties. May order restoration instead of or in addition to those penalties.



# STATE CRIMINAL

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Air Pollution	ECL §§71-2105 and 2113(2) and 19-0304	Sanctions willful air pollution or violation of Air Pollution Control Act, rules, regulations or commissioner's order of hazardous waste incinerator provisions.	6 NYCRR Chapter III and see 6 NYCRR Parts 219, 222, and 257	For air pollution violations, misdemeanors with a maximum of 1 yr. and/or \$250 - \$10,000 fine for each day. For incinerator violations, misdemeanors with maximum of 1 yr. and/or up to \$25,000 per day. Doubled on 2nd conviction.



# STATE CRIMINAL

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
Asbestos	See supra	Asbestos handling, disposal, and transport is governed by all statutes & regulations governing hazardous substances (see supra).	6 NYCRR §597	See supra



# STATE CRIMINAL

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
Petroleum Bulk Storage Program	ECL Article 17, Title 10 & 371-1933(1)	Sanctions violations of PBS regulations, permits or orders governing petroleum tanks.	6 NYCRR Parts 612-614	Misdemeanor with maximum of 1 yr. and \$1,500 - \$25,000 per day. Double for 2nd offense.



# STATE CRIMINAL

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
Chemical Bulk Storage Act	ECL Article 40; ECL §71-4303	Sanctions violations of CBS, its regulations, permits or orders of the commissioner.	6 NYCRR Parts 595-597	Misdemeanor with maximum of 1 yr. and \$1,500 - \$25,000 per day. Double for 2nd offense.



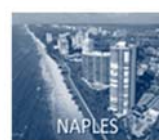
# STATE CRIMINAL

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Pesticides	ECL Article 33 and 71-2907(3)	Sanctions violations of any provision, rule or regulation regarding use of general use pesticides, banned pesticides and restricted use pesticides. Note: Some pesticides qualify as hazardous substances.	6 NYCRR Part 326	For general use pesticides, a violation with a maximum of \$2,500 per day. For banned & restricted use pesticides, misdemeanors with maximum of 1 yr. and/or \$5,000 per day.



# STATE CRIMINAL

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Medical Wastes (Regulatory violations)	ECL §71-4202(a) & (b)	Sanctions any violation of statute, rules, regulations or permits governing treatment, storage, disposal or transportation of medical waste.	6 NYCRR Parts 219, 360 & 364	Violation with maximum 15 days and/or \$5,000 per day. For “intentional knowing or reckless” violations, B misdemeanor with maximum 40 days and/or \$15,000 per day.



# STATE CRIMINAL

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Medical Wastes (Unlawful possession, release or dealing)	ECL §§71-4403 to 4409	Prohibits unlawful possession, release and dealing in medical waste.	6 NYCRR Parts 219, 360 & 364	D felony to B misdemeanor. Fines up to \$150,000 or double gain from crime.



# STATE CRIMINAL

Legislation	Cite	Brief Description	Governing Regulations	Federal Equivalent
Mineral Resources/Oil & Gas	ECL §71-1305 & 1307	Sanctions wasting of oil or gas; violation of Article 23, rules, or regulations; abandonment of mine without reclamation; unpermitted drilling or oil or gas storage; abandonment of oil, gas or salt well without notice; and underground gas storage without permission.	6 NYCRR Parts 551-558	Misdemeanor with maximum of 1 yr. and/or \$1,000 per day fine.



# STATE CRIMINAL

<b>Legislation</b>	<b>Cite</b>	<b>Brief Description</b>	<b>Governing Regulations</b>	<b>Federal Equivalent</b>
DEC's Criminal Catch-All	ECL §71-4001 and All	Criminalizes any violation of ECL or any rule, regulation, order or permit.	All	Violation with maximum of 15 days and/or \$250 fine.

