

**NEW YORK STATE**  
Mario M. Cuomo, Governor

**DIVISION OF CRIMINAL JUSTICE  
SERVICES**

Richard H. Girgenti  
Director of Criminal Justice and Commissioner

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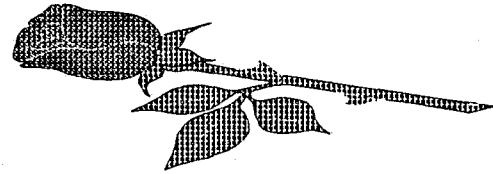
**DICTIONARY OF TERMS  
AND LEGAL DEFINITIONS  
RELATED TO HAZARDOUS,  
MEDICAL AND SOLID WASTE**

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State Division of Criminal Justice Services  
Total Offending Project

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Statistical Services  
1991



*This report is dedicated to the memory of  
its author, Pamela Ramahlo who passed  
away on December 31, 1991.*

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NEW YORK STATE  
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ACQUISITION

# **DICTIONARY OF TERMS AND LEGAL DEFINITIONS RELATED TO HAZARDOUS, MEDICAL AND SOLID WASTE**

OFFICE OF JUSTICE SYSTEMS ANALYSIS  
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A product of the Environmental Offending Project

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## **ACKNOWLEDGEMENTS**

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## **FOREWORD**

The creation of this **Dictionary of Terms and Legal Definitions Related to Hazardous, Medical and Solid Waste** has been an effort on the part of the Office of Justice Systems Analysis of the New York State Division of Criminal Justice Services to improve understanding key terms related to environmental offenses at all levels of government and in all sectors of the justice system. The Dictionary includes both civil and criminal terminology and utilizes New York State Environmental Conservation Law definitions whenever possible. Current usage definitions vary considerably and recommendations are made with the intention to standardize such definitions.

## **INTRODUCTION**

**This Dictionary of Terms and Legal Definitions Related to Hazardous, Medical and Solid Waste** is a reference document developed by the New York State Division of Criminal Justice Services, Office of Justice Systems Analysis with partial funding by the Department of Justice, Bureau of Justice Statistics.

A shared understanding of the complex terminology that is part of this area of environmental law is essential to effective enforcement of these laws. This dictionary is an effort to contribute to that understanding and is intended to serve as a reference tool for practitioners concerned with environmental crime.

The Dictionary covers terminology relating to crime and the criminal justice process as well as civil/administrative terminology pertinent to the field. It includes legal definitions of terms as defined in the New York State Environmental Conservation Law, descriptions of selected Federal and State Acts, common prosecutorial terms, and numerous technical and scientific definitions.

The State and Federal laws were a primary source for many of the definitions. Where multiple legal definitions appear for the same term, the statutory source for each is cited. The sources used for derived definitions is included in the Bibliography listed in the back of the Dictionary.

In an effort to better serve the reader, descriptions frequently contain additional information that might be useful such as precautions to take around certain volatile chemicals, history or intent of a particular act, etc. All entries are alphabetically listed. Words highlighted in a definition are defined in the dictionary. A list of acronyms is provided in an appendix.

**ABANDONED SITES ACT (1979)** Found in Chapter 282 of the Laws of 1979. This legislation created the New York State Registry of Inactive Hazardous Waste Sites for identification and clean up. Chapter 282 amended the New York State Environmental Conservation Law and the Public Health Law by: (1) requiring each county to report every suspected inactive hazardous waste site within its borders, and to update information about the sites annually; (2) requiring the New York State Department of Environmental Conservation to report to the legislature each January 1st regarding the status of every identified hazardous waste site; (3) requiring the Department of Environmental Conservation to maintain a **registry** of inactive sites in each region, including specific information about every site in the region; (4) authorizing the Department of Environmental Conservation to order the **owner** and/or responsible party to develop and carry out an **Inactive Hazardous Waste Disposal Site Remedial Program** for any site which constitutes a significant threat to the environment; and (5) empowering the Commissioner of Health (see **Department of Health**) to declare the existence of a condition dangerous to life and health resulting from an inactive hazardous waste site, and to order the **owner** and/or responsible party to develop and carry out a remedial program.

**ABANDONED STORAGE FACILITY** See Facility, abandoned storage.

**ABANDONMENT** The intentional relinquishment or forsaking of all possession or control of any substance. In any prosecution under ECL Article 71, Title 27, it is an affirmative defense to an allegation of abandonment that the **defendant** surrendered possession or control of such substance to another **party** who knowingly and voluntarily consented to assume such possession or control. (ECL § 71-2702(12))

**ACCESSORY BEFORE THE FACT** A person who solicits or knowingly assists another person in the commission of a crime, often the only person not actually present at the time of the criminal act.

**ACCESSORY TO A CRIME** A person involved in a **crime**, prior to or subsequent to its commission, but not present during its commission.

**ACCOMPlice** A person who in some way knowingly plays a role in the perpetration of a crime.

**ACCUMULATED SPECULATIVELY** A material is accumulated speculatively if it is accumulated before being recycled. A material is not accumulated speculatively if the **person** accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that during the calendar year (commencing on January 1st) the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material present at the beginning of the period. In calculating the percentage of turnover, the 75-percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e.; from which the same material is

recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under section 372.1(e)(7) of this Title are not to be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling. (6-1A NYCRR § 370.2(c)(1); 6-1A NYCRR § 360-1.2))

**ACCUMULATION AREA** As related to hazardous waste, an area located at or near the point of manufacture or other activity where the generation of hazardous waste initially occurs and the accumulation is done in accordance with the requirements of section 372.2(a)(8)(i) of this Title. (6-1A NYCRR § 370.2(2))

**ACID DEPOSITION** The wet or dry deposition from the atmosphere of chemical compounds, usually in the form of rain or snow, having the potential to form an aqueous compound with a Ph level lower than the level considered normal under natural conditions or lower than 5.6, whichever is less. (ECL § 19-0903(1))

**ACKNOWLEDGEMENT OF CONSENT** (See EPA Acknowledgement of Consent).

**ACQUITTAL** A judgment of a court, based either on the verdict of a jury or a judicial officer, that the defendant is not guilty of the offense(s) for which s/he has been tried. Conviction and dismissal are other possible adjudications (criminal). A not guilty verdict must be accepted by the court in its judgment, and thus must result in an acquittal.

**ACTIVATED SLUDGE PROCESS** A biological sewage treatment process in which a mixture of sewage and activated sludge is agitated and aerated. It is intended to include the modified forms of this process and also the so-called package plants which make use of such modifications. (6-2A NYCRR § 650.1)

**ACTIVE CONCEALMENT** Acting in a manner that is intended to conceal the truth.

**ACTIVE INGREDIENT** (a) In the case of a pesticide other than a plant regulator, defoliant or desiccant, an ingredient which will prevent, destroy, repel, or mitigate insects, fungi, rodents, weeds, or other pests; (b) In the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of maturation or otherwise alter the behavior of ornamental or crop plants or their produce; (c) In the case of a defoliant, an ingredient which will cause leaves or foliage to drop from a plant; (d) In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue. (ECL § 33-0101(1))

**ACTIVE LIFE** (I.) In reference to a **hazardous waste management facility**, the active life of a facility means the period of time starting from the initial receipt of **hazardous waste** at the facility until the commissioner of the Department of Environmental Conservation receives certification of final closure. (6-1A NYCRR § 370.2(4)); (II.) In reference to a **solid waste management facility**, that period of time during which solid waste is or will be routinely and regularly received. (6-1A NYCRR § 360-1.2(3))

**ACTIVE PORTION** That portion of a **solid waste management facility** where treatment, storage, or disposal operations are being or have been conducted and which is not an inactive or **closed portion**. (6-1A NYCRR § 360-1.2(4))

**ACUTE HAZARDOUS WASTE** See **Waste, Acute Hazardous**.

**ADJUDICATION (CRIMINAL)** The judicial decision terminating a criminal proceeding by a **judgment of conviction** or **acquittal**, or a **dismissal** of the case.

**ADMINISTRATIVE LAW** Body of law created by administrative agencies in the form of rules, regulations, orders and decisions. An example of administrative law is the New York Codes, Rules and Regulations.

**ADMINISTRATIVE LAW JUDGE (ALJ)** The hearing officer duly designated by the commissioner as his/her representative for the purpose of conducting a hearing and making a report based on the record. (6-1A NYCRR § 375.2(b))

**ADMINISTRATIVE PROCEEDING** A hearing that takes place outside of a court of law but within the agency of authority, and presided over by an **administrative law judge** in a court of law.

**ADMINISTRATIVE REMEDY** A legal remedy that is sought by placing one's grievance before the administrating agency, prior to the case being taken into court.

**AGENT** Any director, officer or employee of a **corporation**, or any other person who is authorized to act in behalf of the corporation. (See also **high managerial agent**) (Penal Law, Sect. 20.20)

**AGGREGATE WEIGHT** Courts have held that aggregate weight would mean that a **prosecutor** could consider as one **crime** a series of **disposals** of small amounts of **hazardous wastes** which were conducted pursuant to a single common **intent** and one general plan and then use this accumulated weight in order to reach felony weight requirements, People v. Roth, 121 A.D. 2d 576, 503 N.Y.S.2d 627, (Suffolk Co. 1986), appeal denied, 68 N.Y.2d 773, 506 N.Y.S.2d 1057 (1986).

**AGREEMENT STATE** Under Section 274 of the Atomic Energy Act of 1954, and through agreement with the Nuclear Regulatory Commission, any state that assumes responsibility for regulating and licensing the possession, use and disposal of certain radioactive materials including low level radioactive waste resulting from such use.

**AGRICULTURAL COMMODITY** Any plant or part thereof, or animal, or animal product, produced by a **person** (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters or other comparable persons) primarily for the sale, consumption, propagation or other use by man or animals. (ECL § 33-0101(5))

**AIR CLEANING INSTALLATION** Any method, process or equipment which removes, reduces or renders less noxious **air contaminants discharged** into the atmosphere. (ECL § 19-0301(6))

**AIR CONTAMINANT** An air contaminant is defined as "a dust, fume, gas, mist, odor, smoke, pollen, noise or any combination thereof." This definition is extremely broad and can cover anything from smokestack **emissions** to rock concerts. **Incineration** of wastes is also dealt with in this section. The residue from improper burning of **hazardous wastes** and **medical waste** can also result in air contaminants. (ECL § 19-0107)

**AIR CONTAMINATION** The presence in the outdoor atmosphere of one or more **air contaminants** which contribute or which are likely to contribute to a condition of **air pollution**. (ECL § 19-0301(4))

**AIR CONTAMINATION SOURCE** Any source from which there is **emitted** into the atmosphere any **air contaminant**, regardless of who the **person** is who owns or operates the building, premises or other property on which such source is located or the facility, equipment or other property by which the emission is caused or from which the emission comes. Without limiting the generality of the foregoing, this term includes all types of commercial and industrial plants and stations, shops and stores; buildings and other **structures** of all types, including single and multiple family residences, apartment houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings; automobiles, trucks, tractors, buses and other motor vehicles (hereinafter called "motor vehicles"); garages; vending and service locations and stations; railroad locomotives; ships, boats and other waterborne craft; aircraft; portable fuel-burning equipment; **incinerators** of all types, indoor and outdoor; and refuse **dumps** and piles. (ECL § 19-0301(5))

**AIR POLLUTION** The presence in the outdoor atmosphere of one or more contaminants in quantities, of **characteristics**, and of a duration which are, or may be, injurious to human, plant, or animal life or to property or which unreasonably interferes with the comfortable enjoyment of life and property. (6-1A NYCRR § 200.1)

**AIR POLLUTION CONTROL ACT** ECL Article 19: The intent of this article is to safeguard the air resources of the state from pollution by : (1) controlling or abating air pollution which shall exist when this article shall be enacted; and (2) preventing new air pollution under a program which shall be consistent "with the provisions of this article including, but not limited to: (a) conducting studies or causing studies to be conducted and research with respect to air pollution control, abatement or prevention; (b) determine by means of field studies and sampling the degree of air pollution in New York State; (c) provide advisory technical consultation services to local communities, etc. (ECL § 19-0105)

**AIR POLLUTION EMERGENCY** A combination of circumstances which requires immediate action to reduce the quantity of contaminants in the atmosphere due to the danger to the public health and welfare, injury to agricultural crops and livestock, damage to and deterioration of property, hazards to air and ground transportation or impairment of environmental quality. (ECL § 1-0303)

**AIR QUALITY STANDARD** A numerically prescribed contaminant level that shall not be exceeded in a specified area of the State. Such contaminant levels may include instantaneous, short term, or long term concentrations of individual contaminants or grouping of contaminants having synergistic effects. Such standards may also be described in terms of net effects resulting from the occurrence of individual contaminants or grouping various contaminants. (6-1A NYCRR § 257-1.2)

**AIR REGULATIONS** The definition sections are ECL § 19-0107, and 19-0306. Article 19, Titles 1, 3, 5 and 9 are regulatory sections. The prohibition and sanction sections are found in ECL § 71-2105 and 71-2113(2). State regulations are found in 6NYCRR Parts 200 through 317. Analogous Federal statutes can be found in the Clean Air Act, 42 U.S.C.A. sections 7401 to 7642 and the Noise Control Act, 42 U.S.C.A. § 4901 to 2918. The statutes governing air are formatted similarly to those dealing with hazardous wastes and water. That is, the statutes provide very little detail and rely primarily upon the regulations to establish the specific enforcement standards.

**ALARA (as low as reasonably achievable)** The requirement that all operations involving radiation and radioactivity must be conducted in such a way that any exposures or release are ALARA.

**ALPHA PARTICLE** A type of ionizing radiation that is ejected spontaneously from the nucleus of some types of radioactive elements and consisting of a positively charged particle of two neutrons and two protons. Alpha particles can be stopped by a sheet of paper, will not penetrate skin or most clothing, but, if emitted from radioactive material within the body, may be harmful.

**AMICUS BRIEF** See AMICUS CURIAE

**AMICUS CURIAE aka AMICUS BRIEF** "friend of the court." An amicus brief is one submitted to the court on behalf of third parties who stand to benefit from the court's decision, and is submitted to bring to the attention of the court matters that the court might otherwise overlook.

**AMIDES, AMINES and IMIDES** These are basic chemicals that are used in the manufacture of plasticoids, and have been found to be carcinogenic.

**ANCILLARY EQUIPMENT** In related to **hazardous waste**, "any device, including but not limited to such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to storage or treatment tanks, between hazardous waste storage and treatment tanks to a point of disposal onsite or to a point of shipment for disposal offsite." (6-1A NYCRR § 370.2(9))

**APPEAL** A request by either the **defense** or the **prosecution** that a case be removed from a lower court to a higher court in order for a completed trial to be reviewed by the higher court. When a **judgment** is appealed, the court in which it is first given cannot be a **party** to the review process. Appeals may be either on the record or **de novo**. In the latter instance, matters of fact as well as law may be reviewed.

**APPEARANCE** The act of coming into a **court** and submitting to the authority of that court.

**APPEARANCE, FIRST aka INITIAL APPEARANCE** The first appearance of an adult in the court which has **jurisdiction** over his/her case. Various procedural steps may be taken during a first appearance. The accused may be informed of the **charges** against him/her, a **plea** may be entered, and **bail** set; or the accused may merely be informed of his/her rights and of the general nature of the proceedings and it may be determined whether the accused has **counsel**. A first appearance may include a determination of **probable cause** and the **arraignment**. A first appearance is often called a "preliminary arraignment," or a "presentment," and occasionally a "magistrates preliminary hearing" or a "preliminary hearing."

**APPELLANT** A person who initiates an **appeal**.

**APPLICANT** (I.) Under 6-1A NYCRR § 360-1.2(7), "The person applying for a permit under this Part and must be the **owner** or **operator** of the **solid waste management facility**"; (II.) Under 6-1A NYCRR § 362.2(g), "Any municipality, duly designated public agency, or public authority which files an application for detailed planned aid pursuant to section 1371 of the Public Health Law. (6-1 NYCRR § 362.2(g))

**APPLICATION** The Department of Environmental Conservation's standard forms for applying for a **permit** under Part 373 of this Title, including any additions, revisions or modifications to the forms. "Application" also includes the information required by the department under Part 373. (6-1A NYCRR § 370.2(10))

**APPLICATION, COMPLETE** An application for a **permit** which is in an approved form and is determined by the Department of Environmental Conservation to be complete for the purpose of commencing review of the application but which may need to be supplemented during the course of review as matters contained in the application in order to enable the Department of Environmental Conservation to make the findings and determinations required by law. A complete application shall include such **draft impact statement** as may be required pursuant to Article 8 of Chapter 70 of the ECL. (ECL § 70-0105(2))

**APPROVED DESIGN CAPACITY** As approved by the Department of Environmental Conservation, the average daily tonnage to be received at the **solid waste management facility** during the quarter in which the most **waste** is anticipated to be received. For solid waste **incinerators** or **refuse-derived fuel** processing facilities, approved design capacity means the rated through put capacity of the unit or units for treatment of solid waste as approved by the Department of Environmental Conservation. (6-1A NYCRR § 360-1.2(8))

**APPROVED DESIGN VOLUME** As approved by the Department of Environmental Conservation, "the maximum in-place volume of **solid waste**, including **cover material**, to be received at the **solid waste management facility** during its **active life**." (6-1A NYCRR § 360-1.2(9))

**AQUATIC RIGHTS or RIPARIAN RIGHTS** Are rights given to citizens or property owners that allow them to use bodies of water for fishing, irrigation, travel, etc.

**AQUIFER** A consolidated or unconsolidated geologic formation, group of formations or part of a formation capable of yielding a significant amount of **groundwater** to wells or springs. (6-1A NYCRR § 360-1.2(10); and 370.2(12))

**AQUIFER, CONFINED** An **aquifer** bound above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself. (6-1A NYCRR § 370.2)

**AQUIFER, PRIMARY WATER SUPPLY** A highly productive **aquifer** which is presently used as a source of **public water supply** by major municipal water supply systems. (6-1A NYCRR § 360-1.2)

**AQUIFER, PRINCIPAL** A formation or formations known to be highly productive or deposits whose geology suggests abundant potential water supply, but which is not intensively used as a source of water supply by major municipal systems at the present time. Some water supply development has taken place in some of these areas but it is generally not as intensive as in the primary aquifer areas. (6-1A NYCRR § 360-1.2)

**AQUIFER, SOLE SOURCE** (I.) An aquifer system that the federal Environmental Protection Agency, pursuant to Public Law 93-523 which is known as the federal Safe Drinking Water Act of 1974 (42 U.S.C.A. 300f, et seq.), has designated as the sole or principal drinking water source for an area and which, if contaminated, would create a significant hazard to the public health. (ECL § 1-303(24)); (II.) An aquifer system that the federal Environmental Protection Agency, pursuant to the Safe Drinking Water Act, 42 USC 330h-3(e) (see section 370.1[e] of this Part), has determined to be the sole or principal drinking water source for an area and which, if contaminated, would create a significant hazard to public health. The following have been designated sole source aquifers: (i) The Clinton Street Ballpark Valley Aquifer System includes the entire municipalities of Vestal, Johnson City, Endicott, Nichols, Waverly and Owego, New York; (ii) The Long Island Aquifer System includes the entire Counties of Kings, Queens, Nassau and Suffolk, New York; (iii) the Schenectady/Niskayuna Aquifer System includes the entire municipalities of Ballston Spa, Burnt Hills, Charlton, Glenville, Niskayuna, Rexford, Rotterdam, Schenectady and Scotia, New York. (6-1A NYCRR § 370.2(149))

**AQUIFER, UPPERMOSt** The geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the hazardous waste management facility's property boundary. (6-1A NYCRR § 370.2(179))

**ARCHITECT/ENGINEER PROCUREMENT** An approach whereby a consulting engineering firm is hired by a person to plan and develop the design for a solid waste management facility which, includes but is not limited to preparation of an engineering report and complete and biddable contract documents for facility construction. (6-1A NYCRR § 360-1.2(11))

**AREA OF ENVIRONMENTAL VALUE** An area used for waterfowl nesting and feeding, fish spawning and migration , shellfish beds, or wetlands, or significant habitats as determined by the Department of Environmental Conservation. (6-2A NYCRR § 610.1)

**ARRAIGNMENT** The appearance of a person before the court in order that the court may be informed of the accusation(s) against him/her and the person may enter a plea. The meaning of arraignment varies widely among jurisdictions. An arraignment may extend over several appearances and in some cases may include a reading of the formal charges, advising the defendant of his/her rights, appointing counsel, entering a plea and other actions.

**ARREST** Taking a person into custody by actual or physical restraint by authority of law, for the purpose of charging him/her with a criminal offense terminating with the recording of a specific offense. An arrest does not include those events commonly described as "field interviews," "field interrogations," or "temporary detentions" in any location, whether or not the officer considers the person under arrest during some part of the episode.

**ARSENIC** Is an element used in the manufacture of various chemicals, and can cause brain and nervous system damage, as well as cancer of the lungs and skin.

**ASH, COMBINED** The mixture of **bottom ash** and **fly ash**. (6-1A NYCRR § 360-1.2(25))

**ASH RESIDUE** All the solid residue and any entrained liquids resulting from the combustion of **solid waste** in combination with fossil fuel at a solid waste **incinerator**, including **bottom ash**, boiler ash, **fly ash**, and the solid residue of any air pollution device used at a solid waste incinerator. (6-1A NYCRR § 360-1.2)

**ASSIGNED COUNSEL** (see **Counsel, Assigned**)

**ASSUMPTION OF RISK** Is an affirmative defense when charged with negligence, under the theory that the plaintiff was aware of the possible injurious nature of the situation but proceeded with the activities anyway, voluntarily accepting the risks involved.

**ATTEMPT** An act that is more than the planning of a crime, and due to its nature, is a substantial element of finally committing the crime. An attempt is a separate and distinct offense in and of itself.

**ATOM** The smallest part of an element that contains all the chemical properties of that element and which cannot be divided or broken up by chemical means. An atom consists of a central core (nucleus) which is made up of protons and neutrons, and electrons which orbit the nucleus.

**ATTORNEY** aka **LAWYER** aka **COUNSEL** A person trained in law, admitted to practice before the bar of a given **jurisdiction**, and authorized to advise, represent, and act for other persons in legal proceedings. An attorney may represent private individuals, **corporations**, or the government.

**AUTHORIZATION** The possession, where required, of a valid license, **permit** or certificate issued by an agency of the State of New York or the federal government or an order issued by the commissioner of the Department of Environmental Conservation or the administrator of the federal Environmental Protection Agency under applicable statutes, rules or regulations regarding the possession or release of **hazardous substances** or otherwise engaging in conduct which is exempt under applicable statutes, rules, or regulations from the requirement of possessing such a license, permit certificate or order. (ECL § 40-0105)

**AUTHORIZATION, FINAL** Approval by the federal Environmental Protection Agency of a State program which has met the requirements of section 3006(b) of the Resource Conservation and Recovery Act and the applicable requirements of 40 CFR part 271, subpart A (see section 370.1[e] of this Part). (6-1A NYCRR § 370.2(65))

**AUTHORIZED REPRESENTATIVE** As it refers to a **solid waste management facility**, is the individual responsible for the overall operation of a solid waste management facility or an operational unit of a facility, such as the plant manager, superintendent, or individual of equivalent responsibility who has authority and knowledge to make and implement decisions regarding operating conditions at the facility. (6-1A NYCRR § 360-1.2(14); 6-1A NYCRR § 370.2(14)))

**AUTHORIZED TREATMENT, STORAGE OR DISPOSAL FACILITY** See Treatment, storage or disposal facility, authorized.

**AVERAGE FLOW** A measurement whereby the result is terms of cubic feet of water per second derived by the division of the total number of cubic feet of water that flows past a point in any stream or river, with measurements being taken at a specified location, in one year, or for an average of years, by the number of seconds in a year. (ECL § 15-2101)

**BACKFILL** Any material placed around waste containers and/or casks after they have been deposited in a disposal containment area in order to increase the long-term stability of the site. Backfill often consists of sand or grout but may consist of other such materials as well.

**BASELINE PARAMETERS** The list of standard chemical species or other samples listed in the Water Quality Analysis Table in section 360-2.11(c)(6) of this part. (6-1A NYCRR § 360-1.2(15))

**BEDROCK** Cemented or consolidated earth materials exposed on the earth's surface or underlying unconsolidated earth materials, including decomposed and weathered rock and saprolite. (6-1A NYCRR § 360-1.2(16); 6-1A NYCRR, § 370.2(15))

**BENEFICIAL USE PETITION** The generator or potential user of a **byproduct** or **waste** may petition the Department of Environmental Conservation in writing for a determination of beneficial use. The beneficial use petition describes the proposed method of application or use of the **byproduct** **waste**; provides chemical and physical characterizations of the byproduct or waste and of each intended finished product; demonstrates that there is a known or potential market for the intended use of the byproduct or waste; and demonstrates that the intended use will not adversely affect the public health and safety, and the environment. Requests for beneficial use of **ash residue** from **solid waste incinerators** must comply with the requirements of section 360-5(h) of this Part. (6-1A NYCRR § 360-1.2(3))

**BENEFICIAL USE PRODUCT** Materials that the Department of Environmental Conservation has determined are being beneficially used, including the following: (a) materials that are incorporated into a manufacturing process to produce a marketable product; (b) compost that meets the criteria for Class I public distribution and agricultural usage identified in Subpart 360-5 of this Part; (c) wood chips used for mulch, landscaping, or erosion control purposes; (d) ash generated from the combustion of coal if the ash has been tested for toxicity pursuant to a testing protocol approved by the Department of Environmental Conservation and certified to be nontoxic and used as follows: (i) coal combustion bottom ash used as a traction agent on roadways, parking lots, and other driving surfaces; (ii) coal combustion bottom ash and fly ash used as a cement substitute or aggregate in cement or concrete products, or (iii) coal combustion **bottom ash or fly ash** used in situations where the ash is contained and **leachate** will not be generated, such as structural fill within building foundations. (6-1A NYCRR § 360-1.2(3))

**BEST AVAILABLE CONTROL TECHNOLOGY** An emission limitation or equipment standard based on the maximum degree of reduction which the Department of Environmental Conservation determines is achievable on a case-by-case basis taking into account energy, economic, environmental and health impacts, and other costs related to the source. (ECL § 19-0903(3))

**BEST MANAGEMENT PRACTICES** Methods, measures or practices determined to be the most practical and effective in preventing or reducing the impact of **pollutants** generated by **nonpoint sources** to a level compatible with water quality standards pursuant to section 17-0301 of the ECL (Title 4). Best management practices can be applied before, during or after **pollution** producing activities to reduce or eliminate the introduction of pollutants into receiving waters. (ECL § 17-1403(1))

**BETA PARTICLE** An electron or positron emitted at high velocity from the nucleus of an atom which is undergoing radioactive decay. A beta particle can travel a short distance in air but has low penetration ability (a thin sheet of metal or plastic can block penetration). However, large amounts of beta radiation can cause skin burns, and beta emitters can cause damage if taken into the body.

**BEYOND A REASONABLE DOUBT** A term used to describe the burden placed on the prosecution, a burden that must be overcome to find the defendant guilty. A level of proof that must be met.

**BIENNIAL REPORTING** A requirement of the Resource Conservation and Recovery Act Subtitle C. Generators who transport **hazardous waste off-site** must submit a biennial report to the Regional Administrator by March 1 of each even-numbered year. The report details the generator's activities during the previous calendar year including: (1) the federal **EPA identification number** and name of each **transporter** used throughout the year; (2) **EPA identification number**, name, and address of each off-site treatment, storage, or disposal facility to which waste was sent during the year; (3) Quantities and nature of the hazardous

waste generated. **Hazardous and Solid Waste Amendments** expanded the scope of the biennial report to include a description of: (1) Efforts taken to reduce the volume and toxicity of the wastes generated and (2) Changes in volume or toxicity that were actually achieved, as compared with those achieved in previous years. Generators who treat, store or dispose of their hazardous waste on-site also must submit a biennial report that contains a description of the type and quantity of hazardous waste the facility handled during the year, and the method(s) of treatment, storage, and/or disposal used.

**BIOACCUMULATIVE** Substances that tend to accumulate, permanently without the possibility of dissipation, in living organisms through the food chain and/or from exposure, in higher concentrations than in their surrounding environment. Examples of substances that have bioaccumulative properties include DDT and other pesticides, and heavy metals such as lead and mercury. The bioaccumulation process can eventually lead to physical degeneration or death of the organism and/or its offspring.

**BIODEGRADABLE** Substances that are capable of being broken down by the action of living things.

**BIOLOGICAL MONITORING** The determination of the effects on aquatic life, including accumulation of pollutants in tissue, in receiving waters due to the discharge of pollutants by techniques and procedures, including sampling of organisms representative of appropriate levels of the food chain appropriate to the volume and the physical, chemical and biological characteristics of the effluent, and at appropriate frequencies and locations. (6-2A NYCRR § 750.2)

**BIOLOGICAL OXIDATION PROCESS** A process by which microorganisms in the search for food break down complex organic materials into simple, more stable substances. It is intended to include treatment units such as trickling filters, sand filters, oxidation or stabilization ponds and any device performing the same function. Such units are secondary treatment units. (6-2A NYCRR § 650.1)

**BIOLOGICALS** Preparations, made from living organisms and their products, including vaccines, cultures, etc., intended for use in diagnosing, immunizing or treating humans or animals or in research pertaining thereto. (6-1A NYCRR § 364.9)

**BIOREMEDIATION** A method of hazardous waste removal and cleanup through the intentional placement of bacteria and other microbial forms of life like fungi which feed on these wastes, at the site.

**BIRD HAZARD** An increase in the likelihood of bird/aircraft collisions that may cause damage to aircraft or injury to its occupants. This is attributable to the solid waste management facility attracting birds. (6-1A NYCRR § 360-1.2(17))

**BLOOD PRODUCTS** Means any product derived from human blood, including but not limited to blood plasma, platelets, red or white blood corpuscles, and other derived licensed products, such as interferon. (6-1A NYCRR § 364.9(2)).

**BODILY INJURY** to the body, sickness or disease, including death resulting from any of these. (6-1A NYCRR § 370.2(16))

**BODY FLUIDS** Liquid emanating or derived from humans and limited to blood cerebrospinal, synovial, pleural, peritoneal and pericardial fluids, and semen and vaginal secretions. (6-1A NYCRR § 364.9(2)).

**BOILER** An enclosed device using controlled flame combustion and having the following characteristics: (i)(a) the unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids or heated gases; (b) the unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as water-walls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber is and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; (c) while in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and (d) the unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual bases. In the calculation, no credit shall be given for recovered heat used internally in the same unit, (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or (ii) the unit is one which the commissioner has determined, on a case-by-case basis, to be a boiler, after considering the standards in section 370.3(f) of this Part. (6-1A NYCRR § 370.2(17))

**BOND ACT, THE** See the Environmental Quality Bond Act.

**BOOKING** A police administrative action officially recording an **arrest** and identifying the **person**, the place, the time, the arresting authority, and the reason for the arrest. An arrest is not a booking, but the latter is usually the action that must signify the completion of the arrest process in order for it to be reportable. **Fingerprinting** is not a necessary feature of this event.

**BOTTOM ASH** The ash residue remaining after combustion of solid waste or solid waste in combination with fossil fuel in a solid waste incinerator that is discharged through and from the grates, combustor, or stoker. (6-1A NYCRR § 360-1.2(18))

**BRc (below regulatory concern)** As related to radioactive waste disposal, radiation exposures that are considered too small to not require regulation as a radiation hazard as determined by the U.S. Environmental Protection Agency.

**BRIEF** Is a written argument submitted by a party to an action. The brief is a summary of all the legal arguments and facts of the case the party wishes the court to review in making its final determination.

**BUFFER ZONE** All that area outside and surrounding the underground gas storage reservoir, no part of which shall be more than thirty-five hundred linear feet from the boundary thereof. (ECL § 23-0101(1))

**BURDEN OF PROOF** Is the test that must be met by the prosecutor in order to show the validity of the case at bar.

**BUSINESS REGISTRATION** The requirement of each person or business providing services of commercial application of pesticides, either entirely or as part of the business, to register with the Department of Environmental Conservation. (ECL § 33-0101(9))

**BYPRODUCT** A byproduct is a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples include a co-product that is produced for the general public's use and is ordinarily used in the same form as produced by the process. (6-1A NYCRR § 370.2(c)(2))

**C & D SITE** Construction and demolition debris site. (See Construction and Demolition Debris for more information.)

**CADMIUM** An element used heavily in the battery making industry, which has been shown to cause kidney damage if ingested over long periods of time.

**CAP OR COVER** The covering, usually layered and composed of geological materials such as clay, sand, and gravel, which is placed over the disposal unit of a facility so that weathering is avoided by encouraging good drainage and preventing erosion prevention.

**CARBON TETRACHLORIDE** A liquid used primarily in dry cleaning and in processes involving de-greasing. Can cause liver and kidney damage as well as cancer.

**CARCINOGEN** A substance or agent producing or inciting cancer.

**CASE LAW** The body of prior decisions relating to a particular topic, relevant in determining how the courts have decided similar cases concerning the same issues.

**CATHODIC PROTECTION** Corrosion protection for a metal **tank** or pipe caused by a continuous electrical current flowing from one or more electrodes or a sacrificial anode to the protected structure. (6-1A NYCRR § 360-1.2)

**CAUSE** The preceding event that made the event in question occur. There are several types of "causes" such as a Direct cause which is the main event that set into motion a series of other uninterrupted events leading to the event in question. There is also the Immediate cause which is an event that occurred just prior to and caused the event in question and the Intervening cause which is an event that occurs after the direct cause, and the event in question, and causes further damage to be done. In law, one is liable for those events that were directly caused by his or her negligence.

**CAUSE, ACCIDENTAL** Is a cause that could not have been foreseen or prevented.

**CAUSE, DIRECT** Is the immediate cause of the injury.

**CAUSE OF ACTION** The reason or cause a party has for suing another, so that relief may be granted.

**CAUSE OF ACTION, BAD FAITH** A suit brought because the other party exhibited an unreasonable and reckless disregard for the rights of the one suing.

**CCH** An abbreviation for "computerized criminal history." A computerized criminal history record of information concerning an identified offender or alleged offender contained in an automated file. A computerized criminal history does not include fingerprints, but entry of information into the automated file is contingent upon fingerprint verification of identity.

**CEASE AND DESIST ORDER** An injunction or order from the court requiring a party to stop the activity and refrain from continuing the activity.

**CENTRAL COLLECTION POINT** Means a location where a **generator** consolidates **regulated medical waste** brought together from original generation points prior to its transport off-site or its treatment on-site (e.g., incineration). (6-1A NYCRR § 364.9(2)).

**CERCLA** See **Comprehensive Environmental Response, Compensation and Liability Act**.

**CFR** The **Code of Federal Regulations**, a document containing all finalized federal regulations.

**CHARACTERIZATION** The descriptive summary resulting from an intensive investigation of a possible disposal site. The investigation is carried out over an entire year to include the four seasons in order to better predict the long-term performance of the site in the containment of radioactive wastes.

**CHARGE** A formal allegation that a specific person(s) has committed a specific offense(s). This word is frequently used in general discourse as a synonym for accusation, and also as a cover term for the various formal actions, occurring at different steps in the criminal justice process.

**CHEMICAL ABSTRACT SERVICE NUMBER or CAS NUMBER** The unique address for a chemical substance assigned by the Chemical Abstract Service division of the American Chemical Society. (6-2A NYCRR § 597.1)

**CHLORINE** is a highly toxic nonflammable gas. The material itself will not burn, but it will support combustion. Leakage of the material should be treated the same as "POISON A." ("Pocket Guide to Hazardous Materials")

**CHROMIUM** Is an element used in electroplating and paint manufacture. It can produce bleeding in the gastrointestinal tract when ingested. People who work in chromium related jobs have a high risk of lung cancer.

**CIRCUIT COURT** A court having jurisdiction over several districts.

**CISTERN** A reservoir constructed either wholly or partially underground for the collection and storage of water. A stone-filled dry well with a capacity of less than 60 gallons or a septic or sewage system is not considered a cistern. (6-1A NYCRR § 326.1)

**CITATION (APPEAR)** A written order issued by a law enforcement officer in lieu of arrest and booking, directing an alleged offender to appear in a specific court at a specified time in order to answer a criminal charge.

**CIVIL ACTION** A lawsuit filed in court against a person who has either failed to comply with statutory or regulatory requirements or an administrative order or has statutory or regulatory requirements or has contributed to the release of hazardous wastes or constituents. There are four types of civil actions: Compliance, Corrective, Monitoring and Analysis, and Imminent Hazard.

**CLASS A EXPLOSIVE** Defined in 49 CFR 173.53 (see section 370.1[e] of this Part). See Explosives. (6-1A NYCRR § 370.2(19))

**CLASS ACTION** A suit, brought by a representative of a larger body of litigants, that is maintained to gain compensation for the group because all the members are party to the same action, all having the same claim. Certain requirements must be met to be considered a class action. Once a judgement is handed down, all members are bound by the decision.

**CLASS B EXPLOSIVE** Defined in 49 CFR 173.88 (see section 370.1[e] of this Part). See Explosives. (6-1A NYCRR § 370.2(20))

**CLEAN AIR ACT (1970)** This federal act governs air quality in the United States. The Clean Air Act, CAA, requires the federal Environmental Protection Agency to set mobile source limits, ambient air quality standards, hazardous **air pollutant** emission standards, standards for new sources, significant deterioration requirements, and focus on areas which do not attain standards. Section 112 of the act specifically concerns "hazardous air pollutants." CAA was amended in 1977 to extend clean air deadlines for smog.

**CLEAN FILL** (I.) As defined in ECL § 27-0704(a), "clean fill" is material that consists of concrete, steel, wood, sand, dirt, soil, glass or other material designated by the commissioner of the Department of Environmental Conservation; (II.) In 6-1A NYCRR § 360-1.2(22), "clean fill" consists of concrete, steel, wood, sand, dirt, soil, glass, **construction and demolition debris**, and other inert material designated by the Department of Environmental Conservation.

**CLEAN WATER ACT VIOLATIONS** The unpermitted **discharge of hazardous or regulated waste** into a body of water is subject to prosecution under Articles 17 and 71 of the Environmental Conservation Law. Water quality violations have recently given rise to the largest criminal fines ever imposed in the State.

**CLEAN WATER ACT (1977)** This statute controls the quality of the nations navigable waters. Section 402 - governs permits for the **discharge** of substances into navigable waters of the U.S. Section 311 - prohibited the discharge of **oil** and about 300 designated **hazardous substances** "in such quantities as may be harmful."

**CLEAR AND CONVINCING PROOF** Evidence that has been introduced that will convince a jury beyond a reasonable doubt.

**CLOSED PORTION** In reference to **solid waste management facilities**, that portion of a facility which has been closed in accordance with the Department of Environmental Conservation approved closure plan for such facility and all applicable closure requirements. See also **Active Portion** and **Inactive Portion**. (6-1A NYCRR § 360-1.2(23); § 370.2(23))

**CLOSURE** (1) In reference to **treatment, storage and disposal facilities**, closure is the period when **wastes** are no longer accepted, during which **owners or operators** of treatment, storage and/or disposal facilities complete treatment, storage and disposal operations, apply final covers to or cap **landfills**, and dispose of or decontaminate equipment, structures and

soil. **Post-closure**, which applies only to disposal facilities, is the 30-year period after closure during which owners and operators of disposal facilities conduct monitoring and maintenance activities to preserve and look after the integrity of the disposal system. The purpose of closure and post-closure requirements is to ensure that all facilities are closed in a manner that (a) minimizes the need for care after closure and (b) controls, minimizes, or eliminates the escape of waste, leachate, contaminated rainfall or waste decomposition products to **ground or surface waters** and the atmosphere. (2) Those actions taken to prepare a site for simple custodial care.

**CLOSURE, PARTIAL** (I.) The closure of a discrete part of a **solid waste management facility** in accordance with the applicable closure requirements of this Part. (6-1A NYCRR § 360-1.2(106)); (II.) The closure of a **hazardous waste management unit** in accordance with the applicable closure requirements of Subparts 373-2 and 373-3 of this Title at a facility that contains other active hazardous waste management units. For example, "partial closure" may include the closure of a **tank** (including its associated piping and underlying containment systems), **landfill cell**, **surface impoundment**, **waste pile**, or other hazardous waste management unit, while other units of the same facility continue to operate. (6-1A NYCRR § 370.2(120)); (III.) The closure of a discrete part of a facility in accordance with the applicable **closure requirements** of 40 CFR Parts 264 or 265. For example, partial closure may include the closure of a trench, a unit of operation, a landfill cell, or a pit, while other parts of the same facility continue in operation or will be placed in operation in the future. A proposed redefinition was published in March 19, 1985, Federal Register (50 FR 11068).

**CLOSURE REGULATIONS [Resource Conservation and Recovery Act SUBPART G]** An **owner or operator** must develop a plan for closing the **facility** and keep it on file at the facility until closure is completed and certified. This plan must include: (i) A description of how the facility will be closed; (ii) An estimate of the maximum amount of **waste** the facility will handle; (iii) A description of the steps needed to decontaminate equipment during closure; (iv) An estimate of the year of closure; and (v) A schedule for closure. During closure the owner or operator must treat, remove from the **site**, or **dispose of onsite**, all **hazardous wastes** in accordance with the approved closure plan. Once closure is completed, the owner or operator certifies that the facility has been properly closed. As part of closure activities, a survey plan indicating the location and dimensions of **landfill cells** or other disposal areas is submitted to the local land authority and the Regional Administrator. This plan serves the purpose of preserving a record of the treatment, storage and/or disposal facility that can be referenced in future years. A notation on the deed to the facility property must also be made to notify potential purchasers of the property that the land was used to manage hazardous waste.

**COASTAL WATERS** Waters in New York State designated by this title as Lake Erie and Ontario, the St. Lawrence and Niagara Rivers, the Hudson River south of the Federal Dam at Troy, the East River, the Harlem River, the Kill van Kull and Arthur Kill, Long Island Sound and the Atlantic Ocean, their connecting water bodies, bays, harbors, shallows and wetlands. (6-2A NYCRR § 505.2)

**COASTLINE** The lands adjacent to New York State **coastal waters**. (6-2A NYCRR, § 505.2)

**COEFFICIENT OF PERMEABILITY** and **HYDRAULIC CONDUCTIVITY** Means the rate of laminar flow of water through a unit cross-sectional area of a porous medium under a unit hydraulic gradient at a standard temperature. "Laminar flow" is a constant velocity flow. (6-1A NYCRR § 360-1.2(24))

**COMBUSTION** The thermal treatment of **solid waste** in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the **waste**. Examples of combustion processes include **incineration**, **pyrolysis**, and **fluidized bed**. (6-1A NYCRR § 360-1.2(26))

**COMMERCIAL CHEMICAL PRODUCTS** (40 CFR Section 261.33(3) and (f)) One of the federal Environmental Protection Agency's three lists of **hazardous waste**. This third list consists of specific commercial chemical products, or manufacturing chemical intermediates. It includes chemicals such as chloroform and creosote, acids such as sulfuric acid and hydrochloric acid, and **pesticides** such as DDT and kepone. (See **Listing of Hazardous Wastes**.) (The Resource Conservation and Recovery Act manual)

**COMMERCIAL ESTABLISHMENT** Any premises used for the purpose of carrying on or exercising any trade, business, profession, vocation, or commercial or charitable activity, including but not limited to laundries, hospitals, and food or restaurant establishments. (ECL § 35-0103)

**COMMERCIAL HAZARDOUS WASTE FACILITIES** or **COMMERCIAL FACILITIES** A facility that receives from off-site any **hazardous waste** from any **person** that is not part of the same trust, firm, joint stock company, **corporation** (including a government corporation), partnership, association, state, federal government, and any agency thereof, municipality, commission, political subdivision of the state, or any interstate body except when small quantities of hazardous wastes from public bodies are accepted on an emergency basis with the approval of the commissioner of the Department of Environmental Conservation on a no-cost basis. (6-1A NYCRR § 370.2(25))

**COMMISSIONER** The commissioner of the Department of Environmental Conservation or his/her agent. (6-1A NYCRR § 325.1); (6-1A NYCRR, § 375.2(c))

**COMPACT** An agreement between a group of states that have agreed to deposit low level radioactive waste at one central disposal site.

**COMPACTION** A method whereby hydraulic pressure is used to reduce the volume of waste.

**COMPARABLE REPLACEMENT DWELLING** One which is: (1) decent, safe, and sanitary; (2) functionally equivalent and substantially the same as the acquired dwelling with respect to number of rooms, area of living space, type of construction, age, and state of repair; (3) fair housing (open to all persons regardless of race, color, religion, sex or national origin); (4) in areas not generally less desirable than the dwelling to be acquired in regard to public utilities and public and commercial facilities; (5) reasonably accessible to the relocatee's place of employment; (6) adequate to accommodate the relocatee; (7) in an equal or better neighborhood; (8) available on the market to the displaced person; and (9) within the financial means of the displaced family or individual. (6-2A NYCRR § 590.2)

**COMPLAINT** A formal written accusation made by any **person**, often a **prosecutor**, and filed in court, alleging that a specified person(s) has committed a specific offense. **Complaint, information, and indictment** are the three types of **charging documents**. The filing of a charging document in a court initiates criminal proceedings against the accused. A complaint is usually filed in **misdemeanor** cases or to initiate **probable cause hearings** in **felony** cases. Informations and indictments are usually used to initiate felony trials. In some jurisdictions, however, a complaint, when made by a prosecutor, has the same information and can be used as an alternative to an information.

**COMPLIANCE ORDER/ACTION** An order or action issued under Section 3008(a) of the Resource Conservation and Recovery Act, which requires any **person** who is not complying with a requirement of the Resource Conservation and Recovery Act to take steps to come into compliance.

**COMPONENT** As defined in 6-1A NYCRR § 370.2(27), either a **tank** or ancillary equipment of a **tank system**.

**COMPOSTING FACILITY** Any facility used to provide aerobic, thermophilic decomposition of solid organic constituents of **solid waste** to produce a stable, humus-like material. (6-1A NYCRR § 360-1.2(29); 6-1A NYCRR § 370.2(27))

**COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT** CERCLA or the Federal **Superfund** provides general authority for federal and state governments to respond directly to problems at uncontrolled **hazardous waste** disposal sites, and establishes a fund to pay the cost of this response at sites where responsible parties cannot be identified or are unable to pay. Unlike earlier legislation dealing with **hazardous substance** releases, CERCLA provides federal funds not only for emergency situations, but also for longer-term, permanent remedies. By establishing federal procedures for investigating, evaluating and cleaning up hazardous waste sites, CERCLA acts as an

important force shaping the State inactive sites program and plan. Under CERCLA, the federal Environmental Protection Agency compiles a National Priorities List (NPL) of hazardous waste sites nationwide, as candidates for federal remedial response. Sites on the federal list are ranked according to a numerical score computed using the hazard ranking system (HRS), which takes into account the potential for migration of pollutants by air, groundwater, and surface water. The state and federal governments together pursue cleanup at all NPL sites, funded either by responsible parties or by federal superfund. The original CERCLA legislation expired September 30, 1985. After much debate in Congress, CERCLA was amended and reauthorized. The **Superfund Amendments and Reauthorization Act of 1986 (SARA)** was signed into law October 17, 1986. SARA makes many procedural changes in the federal superfund program.

**CONDENSATE** Liquid hydrocarbons that were originally in the gaseous phase in the reservoir and liquids recovered by surface separation from natural gas. (6-2A NYCRR § 550.3)

**CONDITIONAL DISMISSAL** A lawsuit that will be dropped provided that certain conditions be met.

**CONDITIONAL STIPULATION** Is a promise to perform a certain act provided a certain event does take place.

**CONGLOMERATE** Is a corporation that owns several companies, regardless of the business that those subsidiaries undertake.

**CONSENT AGREEMENT, COURT ORDERED** An agreement negotiated by the New York State Department of Law with a responsible party which is approved by the court and is enforceable in a court proceeding. (See also **Consent Order**)

**CONSENT ORDER** A legal and enforceable negotiated agreement between the Department of Environmental Conservation and responsible parties where responsible parties agree to undertake investigation and cleanup or pay for the costs of investigation and cleanup work. The order includes a description of the remedial actions to be taken and a schedule for implementation. (See also **Court Ordered Consent Agreement**)

**CONSERVATION EASEMENT** An easement, covenant, restriction or other interest in real property, created under and subject to the provisions of Title 49 of the ECL which limits or restricts development, management, or use of such real property for the purpose of preserving or maintaining the scenic, open, historic, archaeological, architectural, or natural condition, character, significance, or amenities of the real property in a manner consistent with the public policy and purpose set forth in section 49-0301 of Title 49 of the ECL, provided that no such easement shall be acquired or held by the state which is subject to provisions of article fourteen of the constitution of the State of New York. (ECL 49-0303(1))

**CONSIGNEE** As defined in 6-1A NYCRR § 370.2(30)), the ultimate treatment, storage or disposal facility in a receiving country to which the **hazardous waste** is sent.

**CONSOLIDATED HEALTH DISTRICT** A health district established under section 390 of the Public Health Law. (ECL § 1-0303(5))

**CONSOLIDATION OF ACTIONS** For the sake of efficiency and time conservation, a court may order a consolidation of actions if there are many parties suing for the same reasons, allowing the court to hand down one judgement.

**CONSTRUCTION** As defined in 6-1A NYCRR § 360-1.2(31)), any physical modification to the site at which a potential or proposed **solid waste management facility** is to be located, including, but not limited to site preparation (e.g., clearing and grading, excavation of borrow material for daily cover, etc.).

**CONSTRUCTION AND DEMOLITION DEBRIS** Uncontaminated **solid waste** resulting from the construction, remodeling, repair, and demolition of structures and roads, and uncontaminated solid waste consisting of vegetation resulting from land clearing and grubbing, utility line maintenance and seasonal and storm-related clean-up. Such waste, includes but is not limited to bricks, concrete, and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, non-asbestos insulation, roofing shingles, asphaltic pavement, glass, plastics that are not sealed in manner that conceals other wastes, electrical wiring and components containing no hazardous liquids, and metals that are incidental to any of the above. Solid waste that is not construction and demolition debris (even if resulting from the construction, remodeling, repair and demolition of structures, roads, and land clearing) includes but is not limited to asbestos waste, garbage, corrugated container board, electrical fixtures containing hazardous liquids, carpeting, furniture, appliances, tires, dumps, containers, and fuel tanks. (6-1A NYCRR § 360-1.2)

**CONSTRUCTION AND DEMOLITION PROCESSING FACILITY** A recyclables handling and recovery facility which receives and processes **construction and demolition debris** by any means, recovering recyclables in the process. (6-1A NYCRR § 360-1.2(34))

**CONSTRUCTION CERTIFICATION REPORT** A report submitted to the Department of Environmental Conservation upon completion of the construction of a **solid waste management facility** which includes the resulting information prepared in accordance with the requirements of this Part. (6-1A NYCRR § 360-1.2(32))

**CONSTRUCTION, PHYSICAL** Excavation, movement of earth, erection of forms or structures, or similar activity to prepare a **Hazardous Waste Management (HWM) Facility** to accept **hazardous waste**. (6-1A NYCRR § 370.2(126))

**CONTAINER** Any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled. (6-1A NYCRR, § 360-1.2(35); The Resource Conservation and Recovery Act manual subpart I)

**CONTAINER REGULATIONS [The Resource Conservation and Recovery Act SUBPART I]** The container regulations require nothing more than simple management practices, including: (i) Using containers in good condition. Wastes in leaking or damaged containers must be recontainerized; (ii) Assuring the compatibility of the waste with the container. This is to prevent impairing the ability of the container to hold wastes; (iii) Handling containers properly to prevent ruptures and leaks; (iv) Preventing the mixture of incompatible wastes; and, (v) Inspections to assess container condition. (The Resource Conservation and Recovery Act manual)

**CONTAINMENT, SECONDARY** Containment which prevents any material released from reaching the land or water outside the containment area before clean-up occurs. (6-2A NYCRR § 595.1)

**CONTAMINATION** As applied to **surface water** and **ground water**, means an exceedance of water quality standards specified in Part 701, 702 or 703 of this Title which is attributable to the **solid waste management facility**; or a statistically significant rise in the concentration of measured parameters attributable to a solid waste management facility using statistical tests specified or approved by the Department of Environmental Conservation. (6-1A NYCRR, § 360-1.2(36))

**CONTAMINATION, BIOLOGICAL/BACTERIAL** Contamination of **surface** or **ground water**, or land, by living microorganisms and viruses that cause disease (pathogens). A source of this contamination is often improper **disposal** of raw **sewage** or **infectious waste**. However, biological/bacterial contamination is also sometimes a natural occurrence, for example, algal blooms in water that render it unfit for consumption without chemical treatment.

**CONTAMINATION, CHEMICAL** Contamination of **surface** or **groundwater** and/or land by chemicals that are hazardous to plant and/or animal life due to either their presence, if a toxin, or their high concentration. Common chemical contaminants include fertilizers, pesticides, detergents, solvents, acids, petroleum by-products and other industrial and consumer wastes.

**CONTAMINATION, GROUNDWATER** Contamination of the underground water system comes from seepage (leachate) from old improperly designed **landfills** or from chemical spills, **deep well injection**, and **dumps**. Depending on the source, an underground aquifer may remain unusable for decades--or even centuries.

**CONTINGENCY PLAN** (I.) As defined in 6-1A NYCRR § 360-1.2), a contingency plan is a document describing organized, planned and technically coordinated and financially feasible courses of action to be followed in case of emergency or other special conditions, including but not limited to equipment breakdowns, fire, odor, vectors, explosions, spills, receipt or release of hazardous or toxic materials or substances, ground water, surface water or air contamination attributable to a solid waste management facility and other incidents that could threaten human health or safety or the environment; (II.) As defined in 6-1A NYCRR § 370.2(33)), this is a document setting out an organized, planned and coordinated course of action to be followed in case of a fire, explosion or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

**CONTINGENCY WATER QUALITY** The chemical composition of ground or surface water when contamination has been detected in environmental monitoring points at a solid waste management facility. (6-1A NYCRR § 360-1.2(38))

**CONTROL** Means control exercised by contract, local law, or any other means. (6-1A NYCRR § 360-1.2(19))

**CONVICTION** A judgment of a court, based either on the verdict of a jury or a judicial officer or on the guilty plea of the defendant, that the defendant is guilty of the offense(s) for which s/he has been charged.

**COOPERATIVE AGREEMENT** An agreement where the federal Environmental Protection Agency authorizes the New York State Department of Environmental Conservation to carry out specified work and provides funding to the Department of Environmental Conservation for the work.

**CORPORATE CONDUCT, INDIVIDUAL CRIMINAL LIABILITY** A person is criminally liable for conduct constituting an offense which s/he performs or causes to be performed in the name of or in behalf of a corporation to the same extent as if such conduct were performed in his/her own name or behalf. (Penal Law Sect. 20.20)

**CORPORATE GUILT** A corporation is guilty of an offense when: (a) The conduct constituting the offense consists of an omission to discharge a specific duty of affirmative performance imposed on corporations by law; or (b) The conduct constituting the offense is engaged in, authorized, solicited, requested, commanded, or recklessly tolerated by the board of directors or by a high managerial agent acting within the scope of his employment and in behalf of the corporation; or (c) The conduct constituting the offense is engaged in by an agent of the corporation while acting within the scope of his/her employment and in behalf of the corporation, and the offense is (i) a misdemeanor or a violation, (ii) one defined by a statute which clearly indicates a legislative intent to impose such criminal liability on a corporation, or (iii) any offense set forth in title twenty-seven of article seventy-one of the Environmental Conservation Law. (Penal Law Sect. 20.20)

**CORPORATION** Is a legal entity formed under a state or federal charter, for the purpose of conducting business, either private or public, for profit or not. By incorporating, the people involved shield themselves from liability.

**CORRECTIVE ACTION** As regards the Resource Conservation and Recovery Act § 3008(h), this is an order that federal Environmental Protection Agency issues requiring corrective action at a **facility** where there has been a release of **hazardous waste** or constituents into the **environment**. Corrective action may be required beyond the facility boundary and can be required regardless of when the waste was placed at the facility.

**CORROSION EXPERT** Refers to a person who, by reason of his/her knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal **tanks**. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a professional engineer registered in New York who has licensing or certification that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks. (6-1A NYCRR § 370.2(34))

**CORROSIVE MATERIALS** Materials that are found to be acidic and caustic. Such materials attack flesh and metal, and if they are in contact with other materials they may produce violent reactions or fires. Spilled material may liberate large volumes of fumes that may be **toxic** and can cause eye, skin, and respiratory injury. Most of these materials will generate heat when contacted by water and may erupt violently. Spills should be confined, if possible, to prevent mixing with other materials or the **contamination** of streams and property. Persons coming in contact with corrosive materials should wash for at least 15 minutes, remove contaminated clothing and obtain medical attention.

**CORROSIVITY** According to the federal Environmental Protection Agency, a **solid waste** that exhibits any of the following properties is considered a **hazardous waste** due to its corrosivity: (a) an aqueous material with a pH less than or equal to 2 or greater than or equal to 12.5; or (b) a liquid that corrodes steel at a rate greater than 1/4 of an inch per year at a temperature of 55 C (130 F). This is one of the four **characteristics** wastes can have to make it hazardous. The other three are **ignitability**, **reactivity**, and **EP toxicity**.

**COSMIC RAYS** High energy radiation that reaches the earth from outer space. These particles, composed of protons, alpha particles and a few heavier nuclei, collide with atoms in the upper atmosphere, penetrate their nuclei producing mesons and secondary nuclear particles. These secondary cosmic rays account for about 8% or 27 millirem exposure per year.

**COST** Direct and indirect expenditures, commitment, and net induced adverse effects, whether or not compensated for, used or incurred in connection with the establishment, acquisition, construction, maintenance, and operation of a project. (ECL § 21-1301(3))

**COST, RECONSTRUCTION** See Reconstruction cost.

**COUNSEL, ASSIGNED** A defense attorney, not regularly employed by a government agency, assigned by the court to represent a particular person(s) in a particular criminal proceeding. Assigned counsel may be compensated by the government or retainer fee for each case. An attorney who is regularly employed by the government to represent persons in criminal proceedings is a **public defender**. The third type of **defense attorney** is privately retained counsel.

**COUNSEL, RESTRICTED** An attorney, not employed or compensated by a government agency or subunit, nor assigned by the court, who is privately hired to represent a person(s) in a criminal proceeding. The other two types of **defense attorney** are **assigned counsel** and **public defender**.

**COUNT** Each separate offense, attributed to one or more persons, as listed in a complaint, information or indictment.

**COVER, DAILY** A compacted layer of at least six inches of **cover material** that is placed on all exposed **solid waste**, including **hazardous waste**, in a **landfill** at the end of each day of operation. (6-1A NYCRR § 370.2(37); 6-1A NYCRR § 360-1.2(41))

**CLOSURE, FINAL** The closure of all **hazardous waste** management units at the facility in accordance with all applicable closure requirements, so that hazardous waste management activities under Subparts 373.2 and 373.3 of this Title are no longer conducted at the facility unless subject to the provisions in section 372.2(a)(8) of this Title. (6-1A NYCRR § 370.2(66))

**COVER, INTERMEDIATE** A compacted layer of at least 12 inches of cover material placed where no additional **solid waste** has been deposited or will be deposited within a period of 30 days. (6-1A NYCRR § 360-1.2(85)); (6-1A NYCRR, § 370.2(93))

**COVER MATERIAL** (I.) As defined in 6-1A NYCRR § 360-1.2(39)), "cover material" is soil or other suitable material, or a combination of same, acceptable to the Department of Environmental Conservation that is used to cover compacted **solid waste** in a **landfill**; (II.) As defined in 6-1A NYCRR § 370.2(35)), "cover material" is soil and or other suitable material acceptable to the Department of Environmental Conservation that is used to cover compacted solid waste, including **hazardous waste**, in a **land disposal site**. (6-1A NYCRR § 370.2(35))

**CRIME aka CRIMINAL OFFENSE** An act committed or omitted in violation of a law forbidding or commanding it for which an adult can be punished, upon conviction, by incarceration or other penalties or a **corporation** penalized.

**CRIMINAL ACTION** A prosecutorial action taken by the United States Government or a State towards any **person(s)** who has knowingly and willfully not complied with the law. Such an action can result in the imposition of **fines** or imprisonment.

**CRIMINAL HISTORY RECORD INFORMATION** Information collected by criminal justice agencies on individuals, consisting of identifiable descriptions and notations of arrests, detentions, **indictments, informations** or other formal criminal charges, and any **disposition(s)** arising therefrom, sentencing , correctional supervision, and release. This excludes statistical data that does not identify individuals, information that identifies a **person** without formal indication of criminal charges, and intelligence information or other investigative data not a matter of public record.

**CRIMINAL LAW** The area of law that deals with crimes against others and how they are prosecuted.

**CRIMINAL NEGLIGENCE** A **person** acts with criminal negligence with respect to a result or to a circumstance described by a statute defining an **offense** when s/he fails to perceive a substantial and unjustifiable risk that such result will occur or that such circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation. (Penal Law 15.05)

**CRIMINAL TRANSACTION** Shall have the same meaning as defined in section 40.10 of New York State Criminal Procedure Law, which states that a criminal transaction means "conduct which establishes at least one **offense**, and which is comprised of two or more or a group of acts either (a) so closely related and connected in point of time and circumstance of commission as to constitute a single criminal incident, or (b) so closely related in criminal purpose or objective as to constitute elements or integral parts of a single criminal venture." (ECL 71-4401)

**CULPABILITY** Mental states and their resulting levels of responsibility: (1) Intentionally -- A person acts intentionally with respect to a result or to conduct described by a statute defining an offense when his/her conscious objective is to cause such result or to engage in such conduct; (2) Knowingly -- A person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense when s/he is aware that his/her conduct is of such nature or that such circumstance exists; (3) Recklessly -- A person acts recklessly with respect to a result or to a circumstance described by statute defining an offense when s/he is aware of and consciously disregards a substantial and unjustifiable risk that such result will occur or that such circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct

that a reasonable person would observe in the situation. A person who creates such risk but is unaware thereof solely by reason of voluntary intoxication also acts recklessly with respect thereto; (4) Criminal Negligence -- A person acts with criminal negligence with respect to a result or to a circumstance described by a statute defining an offense when s/he fails to perceive a substantial and unjustifiable risk that such result will occur or that such circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation. (Penal Law Sect. 15.05)

**CURIE** The unit of measure used to describe the degree of radioactivity in a sample of material. A curie equals 37 billion disintegrations per second or approximately the rate of decay of one gram of radium.

**DAMAGES** Are a monetary amount awarded to an individual who has been injured either physically, emotionally, or financially. Damages can be for various amounts, and awarded for a variety of reasons ie. nominal, punitive, exemplary, treble, etc.

**DAMAGES, ABRIDGMENT OF** Often, a judge may reduce the amount of damages awarded because the court felt that the jury was excessive in its award.

**DAMAGES, AGGRAVATION OF** Often, a judge will increase the amount of damages awarded, due to the fact that the injury was caused maliciously.

**DAMAGES, CIVIL** Are the monetary awards given to the winner of a civil action, to compensate for a loss or injury suffered.

**DAMAGES, COMPENSATORY** An award meant to place the injured party in as good a position as he would have been had he not been injured.

**DAMAGES, PUNITIVE** That which is awarded to the injured party to punish the offender for his actions.

**DANGEROUS PLACARDS** See Placards, dangerous.

**DE NOVO** Anew, fresh, as if there had been no earlier decision. When the decision of a judicial officer is reviewed de novo, matters of fact as well as law are considered by the court; witnesses may be heard, and new evidence presented as if the case were being heard for the first time. In some jurisdictions, some or all of the decisions of a court of limited jurisdiction can be reviewed de novo by a higher court.

**DEBRIS** Rock fragments, sand, silt, earth or organic matter in a heterogeneous mass; or the silt, sand and gravel generally associated with hydraulic mining commonly referred to as tailings, slums or slickens; or any loose material caused by a shot, fall, smash or explosion; or any accumulation of rubble resulting from a mining activity. (ECL § 23-2705(3))

**DECAY** (as relates to radioactive materials) The radioactive disintegration of a material over time due to constant emission from the atomic nuclei of alpha and beta particles. Decay is often accompanied by gamma radiation.

**DECOMMISSIONING** The withdrawal or closing off of operations in a nuclear facility through decontamination of and/or disposal of radioactive waste or through encasement of the facility.

**DECONTAMINATION** Means the process of reducing or eliminating the presence of harmful substances, such as infectious agents, so as to reduce the likelihood of disease transmission from those substances. (6-1A NYCRR § 364.9(2)).

**DECONTAMINATION** (as related to radioactive material) The process by which radioactive material is removed from a structure, surface, person, or object.

**DEFENDANT** A person against whom a criminal proceeding is pending. A person becomes a defendant when the charging document is filed and remains a defendant until adjudication (criminal), that is, judgment or dismissal of the case.

**DEFENSE ATTORNEY** An attorney who represents the defendant in a legal proceeding. There are three types of defense attorneys: public defender, assigned counsel, and retained counsel. If the defendant acts as his own attorney, he is acting pro se.

**DEFOLIANT** Any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission. (ECL § 33-0101(12))

**DEGRADABLE** Substances that are capable of being broken down chemically.

**DEGRADATION** The decomposition of a compound by stages, exhibiting well-defined intermediate products. (ECL § 33-0101(13))

**DEPARTMENT OF ENVIRONMENTAL CONSERVATION INACTIVE HAZARDOUS WASTE SITES PROGRAM** See Inactive Hazardous Waste Sites Program, Department of Environmental Conservation.

**DEPARTMENT OF ENVIRONMENTAL CONSERVATION (DEC)** In relation to hazardous waste, the Department of Environmental Conservation carries out administrative, technical and legal functions. On the administrative level, the Department maintains a data

base of site specific information, reports quarterly on the status of sites, plans and evaluates program management, oversees investigations and site cleanups, hires consultants, develops and reviews workplans, negotiates contracts and manages fiscal business. Technical work includes collecting and analyzing soil, sediment, air and water samples, identifying contaminants, determining violations of environmental standards, identifying responsible parties, and performing or overseeing the implementation of remedial activities. On the legal side, the Department of Environmental Conservation's lawyers negotiate legally binding agreements or consent orders with responsible parties to fund or undertake site investigations and cleanups. The Department of Environmental Conservation also prepares and carries out public information and participation programs.

**DEPARTMENT OF HEALTH (DOH)** In relation to hazardous waste, the Department of Health works closely with the Department of Environmental Conservation at every stage of the remedial process. The Department of Health assesses the potential for human exposure to hazardous wastes and estimates the health risks likely to occur from such exposure. Health risk information and environmental data are used to classify sites and establish protective health and safety parameters for conducting remedial activities. The Department of Health also monitors health and determines whether or not observed health effects can be associated with a particular site.

**DEPARTMENT OF HEALTH INACTIVE HAZARDOUS WASTE SITE PROGRAM**  
See Inactive Hazardous Waste Site Program, Department of Health.

**DEPARTMENT OF LAW (DOL)** In relation to hazardous waste, when settlements between the state and responsible parties cannot be achieved voluntarily, or through administrative hearings, the Department of Environmental Conservation can refer these cases to the Attorney General for litigation. The Attorney General can also initiate cases on his/her own. The Attorney General litigates against responsible parties to bring them into agreement to undertake and/or pay for site remediation. The Department of Environmental Conservation and the Department of Health assist the Attorney General with these cases by providing technical support.

**DESICCANT** Any substance or mixture of substances intended for artificially accelerating the drying of plant tissue. (ECL § 33-0101(14))

**DESIGN OR REMEDIAL DESIGN** Technical drawings and specifications for remedial construction at a site, as specified in the final Remedial Investigation/Feasibility Study report. Design documents are used to solicit bids and construct the chosen remedial actions.

**DESIGNATED TREATMENT, STORAGE OR DISPOSAL FACILITY** According to 6-1A NYCRR § 370.2(39)), a designated treatment, storage or disposal facility is a hazardous waste treatment, storage or disposal facility which has received a federal Environmental Protection Agency or Part 373 permit (or interim status), has received a permit (or interim status) from an authorized state, or is a facility that beneficially uses or reuses, or

legitimately recycles or reclaims **hazardous waste** or treats hazardous waste prior to beneficial use or reuse, or legitimate recycling or reclamation and has been designated on the manifest by the generator pursuant to section 372.1(b) of this Title. (6-1A NYCRR § 370.2(39))

**DESTINATION FACILITY** Means the disposal facility, the incineration facility, or the facility that both treats and destroys **regulated medical waste**, to which a consignment of such is intended to be shipped. (6-1A NYCRR § 364.9(2)).

**DESTROYED REGULATED MEDICAL WASTE** Means **regulated medical waste** that has been ruined, torn apart, or mutilated through processes such as thermal treatment, melting, shredding, grinding, tearing or breaking, so that it is no longer generally recognizable as medical waste. It does not mean compaction. (6-1A NYCRR § 364.9(2)).

**DESTRUCTION FACILITY** Means a facility that destroys **regulated medical waste** by ruining it or mutilating it, or tearing it apart. (6-1A NYCRR § 364.9(2)).

**DETAILED PLANS** See Plans, Detailed.

**DEVELOPMENT** Any activity which materially affects the existing condition, use or appearance of any land, structure or improvement including the actual or effective division or proposed division of land into lots, parcels or sites whether contiguous or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy as part of a common scheme or plan, (including any grading, road construction, installation of utilities or other improvements or any other development preparatory or incidental to any such division) by any person or by any other person controlled by, under common control with or controlling such person or by any group of persons acting in concert as part of a common scheme or plan but shall not include the division of any land resulting from bona fide device, inheritance, gift, or the lease of any land for hunting and fishing. (ECL § 15-2703(3))

**DIKE** An embankment or ridge of either natural or man-made materials used to prevent, control, or confine the movement of liquids or solids. (6-1A NYCRR § 360-1.2(43))

**DISCARD** A material is discarded if it is abandoned by being: (1) disposed of; (2) burned or incinerated, including being burned as a fuel for the purpose of recovering usable energy; or (3) accumulated, stored, or physically, chemically, or biologically treated (other than burned or incinerated) instead of or before being disposed of. (6-1A NYCRR § 360-1.2)

**DISCHARGE** The accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of any **solid waste**, or solid waste constituent, including leachate, into or on any air, land, or water. (6-1A NYCRR § 360-1.2).

**DISCHARGE or HAZARDOUS WASTE DISCHARGE** In reference to 6-1A NYCRR § 370.2(42)), A "discharge" or "hazardous waste discharge," is the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of solid or hazardous waste into or on any land or water. (6-1A NYCRR § 370.2(42))

**DISCLAIMER** A clause inserted in a contract that waives the rights or responsibilities of a party.

**DISINTEGRATION** The process by which the neutrons and protons contained in the nucleus of an atom spontaneously transform giving off particles or rays of radiation.

**DISMISSAL** A decision by a **judicial officer** to terminate a case without a determination of guilt or innocence. Dismissals are often classified according to whose **motion** initiates the action: dismissal on a **defendant's** motion, dismissal on a **prosecutor's** motion (nolle prosequi), or dismissal on court's own motion. The reason for dismissal may also be indicated: e.g.; hung jury, lack of timely prosecution, mistrial, death of defendant, insufficient evidence. The effect of the dismissal on the possibility of subsequent prosecution may be indicated: dismissal with prejudice (precluding subsequent action on that same matter) and dismissal without prejudice (allowing subsequent action).

**DISPOSAL** (I.) In reference to ECL 71-2702(5) and the Resource Conservation and Recovery Act, "disposal" is the **discharge**, deposit, injection, dumping, spilling, leaking or placing of any **waste** or **hazardous waste** into or on any land or water so that... (it) may enter the **environment** or be emitted into the air or discharged into any waters of the state, including **groundwater**... disposal may include the **incineration** of waste or hazardous waste and the burning of waste or hazardous waste for the purpose of recovering usable energy"; (II.) In 6-1A NYCRR § 361.1(5)), "disposal" means the **discharge**, deposit, injection, dumping, spilling, leaking or placing of any **industrial hazardous waste** into or on any land or water, so that such waste or any related constituent thereof may enter the environment or be emitted into the air or discharged into any surface or ground waters of the State; and finally, (III.) Disposal has the same meaning set forth in section 27-1301(7) of the ECL, which states that it means the "abandonment, **discharge**, deposit, injection, dumping, spilling, leaking or placing of any substance so that such substance or any related constituent thereof may enter the environment. Disposal also means the thermal destruction of waste or hazardous waste and the burning of such wastes as fuel for the purpose of recovering useable energy. (6-1 NYCRR § 375.2(f))

**DISPOSAL EQUIPMENT** As defined in ECL § 51-0903(5)), "disposal equipment" consists of "structures, machinery or devices at a **disposal site** necessary for efficient and environmentally sound **land disposal** of **solid wastes**, including but not limited to machinery or devices designed to move earth during burial of **wastes** or to increase the density of wastes buried or to be buried. "Disposal equipment" shall also mean facilities, except vehicles, in which collected solid waste is temporarily stored and concentrated prior to transport. (ECL § 51-0903(5))

**DISPOSAL FACILITIES, PERMANENT** As regards Low-level radioactive waste management facilities, defines the permanent disposal of low-level radioactive waste generated within the State of New York, other than such waste which is a federal responsibility pursuant to the provisions of federal law pertaining to state and federal responsibilities for disposal of low-level radioactive waste. (ECL § 29-0101(3))

**DISPOSAL FACILITY** (I.) As defined in 6-1A NYCRR § 360-1.2 and the Resource Conservation and Recovery Act, a "disposal facility" is a solid waste management facility or part of one at which solid waste is intentionally placed into or on any air, land, or water and at which solid waste will remain after closure; (II.) As defined in 6-1A NYCRR § 370.2(44)), a "disposal facility" is a facility or part of a facility at which solid waste, including hazardous waste, is intentionally placed into or on any air, land or water (6-1A NYCRR § 370.2(44)); (III.) A disposal facility includes all buildings, equipment and structures necessary for disposal of a material.

**DISPOSAL, LAND** Any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave. (6-1A NYCRR § 370.2)

**DISPOSAL METHOD, ULTIMATE** The final method used to treat or dispose of a hazardous waste. The term does not include storage or initial treatments used to prepare a hazardous waste for final disposition. The following are considered ultimate disposal methods: landfills; burning, including thermal treatment; incineration, open burning or energy recovery; treatment which will render the waste nonhazardous or less hazardous, including neutralization; and material recovery which is any method used to reclaim, recover or recycle so that at least 75 percent of component materials or substances may be beneficially used or reused as raw materials. (6-1A NYCRR § 370.2(173))

**DISPOSAL SYSTEM** A system for disposing of sewage, industrial waste or other wastes, and including sewer systems and treatment works. (ECL § 17-0105(10))

**DISPOSAL SITE** Those lands needed to dispose of a material. A disposal site includes the facility itself and designated buffer zones.

**DISPOSER STATE** The state in which the designated treatment, storage or disposal facility is located. (6-1A NYCRR § 370.2(45))

**DISPOSITION** The action by a criminal justice agency which signifies that a portion of the justice process is complete and jurisdiction is relinquished or transferred to another agency; or which signifies that a decision has been reached on one aspect of a case and a different aspect comes under consideration, requiring a different kind of decision.

**DISTRICT** A county soil and water conservation district created pursuant to section five of the solid and water conservation districts law. (ECL § 17-1403(5))

**DISTRICT COURT** A federal court or state court that has jurisdiction over one or more states, or only certain counties depending on demographics.

**DISTRICT, MARINE** The waters of the Atlantic Ocean within three nautical miles from the coastline and all other tidal waters within the state, except the Hudson River northerly of the south end of Manhattan Island. (ECL § 17-0105(3))

**DOCUMENTS, PREPARATION OF CONTRACT** The preparation of documents for entering into contracts for: (a) the design, construction, operation, financing, ownership or maintenance of a solid waste management facility; (b) a system of collection and disposal of municipal solid waste through resource recovery; and (c) the marketing of materials and energy recovered from solid waste. Such documents may include detailed construction plans and specifications, bid advertisements, requests for proposals and reports evaluating bids and proposals. (ECL § 27-0501(2))

**DOH** Department of Health.

**DOL** Department of Labor.

**DOSE (in relation to radioactivity)** The amount of ionizing radiation absorbed by a material. Dose is measured in units called rads.

**DOSE EQUIVALENT** The amount of effective radiation which is calculated using the possible absorbed dose, as measured in rads, multiplied by a quality factor as determined by the type of radiation. Dose equivalent is measured in units called rems.

**DOT** Department of Transportation.

**DUE CARE** A concept used in tort law to indicate the standard care or the legal duty one owes to others. Negligence is the failure to use due care, (which is) that degree of care which a person of ordinary prudence and reason (the reasonable man) would exercise under the same circumstances. Failure to exercise due care is the failure to perform some specific duty required by law. It means care which is reasonably commensurate with a known danger and the seriousness of the consequences which are liable to follow its omission...Due care may be either ordinary care or a high degree of care, according to the circumstances of the particular care."

The standard of care required of a reasonable person under the given circumstances, so that risk of danger or harm would be avoided or lessened.

**DUMP, OPEN** Specifically, any facility or site where solid waste is disposed of which is not a sanitary landfill which meets the criteria listed in 40 CFR Part 257 ("Subtitle D Criteria") and which is not a facility for the disposal of hazardous waste. A naturally occurring pit that is not prepared in any way to receive waste, treated or otherwise. (See Landfill, sanitary).

**EFFLUENT STANDARD AND/OR LIMITATION** Any restriction on quantities, quality, rates and concentrations of chemical, physical, biological, and other constituents of effluent which are discharged into or allowed to run from an outlet or point source into waters of the state promulgated by the federal government. (ECL § 17-0105(15))

**ELECTRONIC MONITORING SYSTEM** An electronic leak detection system, approved of by the Department of Environmental Conservation, containing a warning system capable of operating on a continuous basis to detect petroleum prior to its reaching ground or surface waters. (ECL § 17-1003(6))

**ELEMENTARY NEUTRALIZATION UNIT** A device which: (i) is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristic defined in section 371.3 of this Title, or are listed in section 371.4 solely because they are corrosive; and (ii) meets the definition of tank, container, transport vehicle or vessel in this Part. (6-1A NYCRR § 370.2(48))

**EMERGENCY** A natural or accidental human-made event which presents an immediate threat to life, health, property, or natural resources. (ECL § 70-0105(6))

**EMERGENCY RESPONSE** Federal Superfund includes an emergency removal program. In the event of a natural or man-made emergency, this program provides for replacing contaminated drinking water supplies, removing hazardous wastes that can explode or come into human contact and erecting fences to prevent public access to hazardous wastes.

**EMINENT DOMAIN** The right granted to government to take or authorize the taking of private property for public use after just compensation has been given to the owner.

**EMISSION** (I.) The release of any air contaminant into the outdoor atmosphere from any emission source (6 NYCRR § 200.1); (II.) A release into the outdoor atmosphere of air contaminants (ECL § 21-1501(i)).

**EMISSION RATE POTENTIAL** The maximum rate at which a specified air contaminant from an emission source would be emitted to the outdoor atmosphere during normal operations, in the absence of any air cleaning installation, air cleaning device or control equipment. (6 NYCRR § 200.1)

**EMISSION SOURCE, NEW** Any new facility or stationary source that will emit acid deposition precursors in excess of one hundred tons per year, and is granted a permit to construct pursuant to section 19-0305 of article 19 of the ECL after January 1, 1987. (ECL § 19-0907(13))

**EMISSION TEST** Any method of collecting stack samples of emissions from an air contamination source and analyzing such samples for air contaminants. (6 NYCRR § 200.1)

**EMPTY** As referred to in 6-1A NYCRR § 364.1(5), a determination is made when wastes have been removed using the practice commonly employed to remove materials from that type of **container** so that no more than one inch (2.5 centimeters [cm]) of **residue** remains in the bottom of the container; or in the case of a compressed gas, when the pressure in the container approaches atmospheric. In the case of an **acute hazardous waste**, empty shall be defined as set forth in section 371.1(f)(2)(ii)(a), (b) or (c) of this Title.

**ENDANGERING PUBLIC HEALTH, SAFETY OR THE ENVIRONMENT** Sections 71-2710 through 71-2716 of the Environmental Conservation Law penalize the **release** into the environment of **substances hazardous or acutely hazardous** to the public health, safety or the environment. Included is the Environmental Crimes Act which broadened the universe of regulated substances and enhanced the penalties for their improper release.

**ENERGY RECOVERY** (I.) As defined in 6-1A NYCRR § 360-1.2(49)), the **treatment** by which energy is derived or extracted from **solid waste**; (II.) As referenced in 6-1A NYCRR § 370.2(49)), the **beneficial use or reuse or legitimate recycling or reclamation** of solid waste, including **hazardous waste**, through the combustion of such waste to recover energy.

**ENERGY RECOVERY INCINERATOR** See **Incinerator, Energy Recovery**.

**ENGINEERING BARRIER (as relates to radioactive waste)** Any structure specifically designed and constructed according to sound engineering principles in order to improve a site's ability to further isolate low level radioactive waste from the environment and which will protect workers and the public from radiation.

**ENVIRONMENT** (I.) Any water, water vapor, any land including land surface or subsurface, air, fish, wildlife, biota, and all other natural resources. (6-2A NYCRR § 595.1; ECL § 40-0105; ECL § 71-2702(12); ECL § 27-1301(7); and 6-1A NYCRR § 375.2(g)); (II.) As defined in 6-1A NYCRR § 325.1, "environment" means water, air, land and all plants and man and other animals living therein, and interrelationships that exist among them; (III.) In 6-2A NYCRR § 617.2, the term "environment" is defined as the physical conditions which will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, resources of agricultural, archeological, historic or aesthetic significance, existing patterns of population concentration, distribution or growth, existing community or neighborhood character, and human health.

**ENVIRONMENT, SENSITIVE** A site where a **solid waste management facility** poses a specific threat to the **environment** or to the public health due to the ability for a small **contaminant release** to have a significant impact. This may be due to proximity to other sensitive environments which include, but are not limited to: **principal or primary water supply aquifers and public water supply wellhead areas**; areas requiring special protection

(such as regulated wetlands, or the critical habitat of an endangered species); areas containing highly permeable soils or **bedrock** formations (such as karst carbonate formations or bedrock formations that are serving as major public water supply aquifers and which can readily be contaminated from the surface); or other special circumstances. (6-1A NYCRR § 360-1.2(137))

**ENVIRONMENTAL ASSESSMENT FORM (EAF)** (I.) A form used by an agency to assist it in determining the environmental significance or nonsignificance of actions. A properly completed Environmental Assessment Form shall contain enough information to describe the proposed action, its location, its purpose and its potential impacts on the **environment** (6-2A NYCRR § 617.2); (II.) More specifically, an Environmental Assessment Form is a form used by the Department of Environmental Conservation in determining the environmental significance of proposed industrial **hazardous waste facilities** in accordance with Part 617 of this Title (6-1A NYCRR § 361.1(6)).

**ENVIRONMENTAL CONSERVATION LAW** Chapter 43-B of the Consolidated Laws of New York State. The format of the Environmental Conservation Law varies from section to section. In some areas, such as the Fish and Wildlife sections, the law will be more or less self-contained and similar to the New York State Penal Law. In other sections, such as **hazardous wastes**, the statutes form a framework upon which specifics are set forth in regulations promulgated by the Department of Environmental Conservation. Understanding such sections requires cross-referencing to regulations which are civil law by nature and, thus, complicating for criminal enforcement. In addition, because the laws are still developing, the gray areas, or the areas open to interpretation, are many. The statutes also lack the case decisional history that is found in the Penal Law.

The Environmental Conservation Laws are largely regulatory in nature. The State Environmental Conservation Laws, with the exception of Fish and Wildlife provisions, are modeled after Federal statutes and regulations. In some cases, State laws mirror the Federal laws. This is because most Federal funding requires State laws to be effectively equivalent to or no less stringent than the Federal laws. For this reason, and the fact that environmental criminal statutes are in the early case development stage, Federal case law has had a significant impact upon State environmental prosecutions.

**ENVIRONMENTAL IMPACT STATEMENT (EIS)** (I.) Documents which are required by federal and state laws to accompany proposals for major projects and programs that will likely have an impact on the surrounding **environment**. See 42 U.S.C.A Section 4332 (Blacks 479) (II.) A written document prepared in accordance with Part 617 of this Title. (6-1A NYCRR § 361.1(8))

**ENVIRONMENTAL MONITORING POINTS** Designated locations, monitoring wells, and devices for sampling air, soil, groundwater or **surface water** outside of the containment system of a **solid waste management facility**. (6-1A NYCRR § 360-1.2)

**ENVIRONMENTAL PROTECTION AGENCY (EPA)** The federal Environmental Protection Agency (EPA) was created in 1970 to permit coordinated and effective governmental action on behalf of the environment. The EPA uses a variety of methods including laboratory analysis, research development, monitoring, and enforcement to insure that the environment is not polluted. The EPA is responsible for issuing environmental impact statements to inform the public of the effect of various federal and state programs on the environment.

**ENVIRONMENTAL QUALITY BOND ACT (1986) a.k.a. the BOND ACT** (Statutory authority: ECL § 52-0701[3]) The public policy of the State to assure the long-term preservation, enhancement, restoration and improvement of the quality of the State's environment through the acquisition of additional forest preserve lands, and the acquisition, preservation, and improvement of certain other environmentally sensitive lands which will preserve aquifer recharge areas, areas of exceptional scenic beauty, or exceptional forest character, open space, pine barrens, public access, trailways, unique character, wetlands and wildlife habitats. (6-2A NYCRR § 591.2)

**ENVIRONMENTAL THRESHOLD VALUE** A deposition rate, expressed in kilograms of sulfate per hectare per year, at which no significant damaging chemical or biological effects of acid deposition have been reported, and above which there is a high probability that such effects would occur. (ECL § 19-0903(7))

**ENVIRONMENTAL RATING** An assigned rating indicated by the letter A,B, C, or D which considers the potential environmental effects of an air contamination source on its surroundings. (6 NYCRR § 200.1)

**EP TOXICITY** (I.) A test, called the "extraction procedure," that is designed to identify wastes likely to leach hazardous concentrations of particular toxic constituents into the groundwater as a result of improper management. It is a characteristic of hazardous waste (The Resource Conservation and Recovery Act manual); (II.) A test to determine the leachability of certain hazardous substances.

**EPA** Environmental Protection Agency (U.S.)

**EPA ACKNOWLEDGEMENT OF CONSENT** The cable sent to the federal Environmental Protection Agency from the U.S. Embassy in a receiving country that acknowledges the written consent of the receiving country to accept the hazardous waste and describes the terms and conditions of the receiving country's consent to the shipment. (6-1A NYCRR § 370.2(53))

**EPA HAZARDOUS WASTE NUMBER** The number assigned by the Environmental Protection Agency or the commissioner of the Department of Environmental Conservation to each hazardous waste listed in section 371.4 of this Title and to each characteristic identified in section 371.3. (6-1A NYCRR § 370.2(54))

**EPA IDENTIFICATION NUMBER** The number assigned by the federal Environmental Protection Agency or the commissioner of the Department of Environmental Conservation to each generator, transporter, and treatment, storage and disposal facility (6-1A NYCRR § 370.2(55)). Without this number the generator is barred from treating, storing, disposing of, transporting, or offering for transportation any hazardous waste. Furthermore, the generator is forbidden from offering his/her hazardous waste to any transporter, or treatment, storage, or disposal facility that does not also have an EPA ID number.

**ETIOLOGIC AGENT** An etiologic agent is an organism or its toxin which causes or may cause human disease. It should be treated the same as a **POISON "B"**.

**EXCEPTION REPORT** (I.) In addition to the biennial reports required by the Resource Conservation and Recovery Act Subtitle C, generators who transport waste off-site must submit an exception report to the Regional Administrator if they do not receive a copy of the manifest signed and dated by the owner or operator of the designated facility to which their waste was shipped within 45 days from the date on which the initial transporter accepted the waste. The exception report must describe efforts taken to locate the waste, and the results of these efforts. (The Resource Conservation and Recovery Act manual); (II.) An exception report is the report made by the generator if shipment receipt is not acknowledged by the designated facility pursuant to section 372.2(c)(3) of this Title. (6-1A NYCRR § 370.2(58))

**EXCEPTIONS TO The Resource Conservation and Recovery Act TREATMENT, STORAGE AND DISPOSAL REGULATIONS** The Resource Conservation and Recovery Act Subpart A outlines who is subject to the Treatment, Storage and/or Disposal regulations and any circumstances under which a person is excluded or only subject to limited requirements. In general, all owners or operators of facilities treating, storing, or disposing of hazardous wastes must meet the appropriate treatment, storage and disposal regulations. The exceptions include: (1) A farmer disposing of pesticides from his/her own use (see Farmer Exclusion); (2) The owner or operator of a total enclosed treatment facility; (3) The owner or operator of a neutralization unit or a waste water treatment unit (publicly owned treatment works that mix hazardous wastes with other wastes are regulated); (4) A person responding to a hazardous waste spill or discharge; (5) Facilities that reuse, recycle or reclaim hazardous waste (persons who produce, burn and distribute hazardous wastes derived fuel and used oil recyclers are regulated as a result of the Hazardous and Solid Waste Amendments); (6) Generators (including small quantity generators) accumulating wastes within the time periods specified in section 3001 and 3002 of the Resource Conservation and Recovery Act; (7) A transporter storing manifested waste less than ten days; (8) A facility regulated by an authorized State program (such facilities are regulated by the State program instead of the Federal program). In addition, owners or operators of facilities regulated by other environmental laws under a permit-by-rule need only meet minimum treatment, storage and disposal regulations. (The Resource Conservation and Recovery Act manual 111-43,44)

**EXCUSABLE NEGLECT** A form of negligence in which the defendant is not responsible for the harm to the plaintiff, due to the fact that it was not out of negligence or carelessness on the part of the defendant that conditions were created out of which the injury arose.

**EXEMPTIONS, REGULATED WASTE** (1) Rail, water and air carriers are exempt from the requirement of this Part; (2) Vehicles transporting the following regulated wastes are exempt from this Part, provided that no other regulated waste is intermixed, contained in, or otherwise included with such waste: (i) vegetable oils and greases from restaurants and fast food operations; (ii) tallow (animal fat); (iii) food processing waste destined for use in other food or animal feed processes (except blood); (iv) garbage and trash collected from cafeterias; (v) food processing residues which are recognizable as part of the plant or vegetable, including, but not limited to cabbage leaves, bean snips, onion skins, apple pomace and grape pomace (except brewery wastes); (vi) scraps, including but not limited to plastic, rubber, paper, cardboard, wood chips, glass and metal; (vii) grubbing, construction and renovation debris, such as roots, stumps, bricks, cement, asphalt, blacktop, stone and like materials, except asbestos; (viii) agricultural waste, including but not limited to crop residues and animal manure productively employed in agriculture; (ix) nonhazardous dredge or fill material; (x) nonhazardous bottom and fly ash from incinerators and resource recovery facilities; (xi) foundry sand containing no phenols (less than one part per billion); (xii) empty drums or containers destined for reconditioning or being returned to the original manufacturer; (xiii) empty food containers being collected, transported or stored for recycling or reuse; (xiv) samples shipped to laboratories solely for analysis; (xv) scrap lead-acid automotive batteries destined for recovery; (xvi) waste transported by a vehicle such as a public utility vehicle, an emergency rescue vehicle, a blood service collection vehicle or a vehicle operated by a public health nurse in the conduct of routine business, etc., where the transportation of such waste is incidental to the primary function of the vehicle whenever the waste is transported to a central collection facility which shall be considered to be the point of generation; (xvii) waste collected, transported, or transferred wholly onsite by the person responsible for the organization, generation or occurrence of such waste, provided that storage, treatment and disposal of waste upon those premises are authorized pursuant to this Title; (xviii) pesticides, transported by the farmer who generated them, to a pesticide clean-up day collection site authorized pursuant to section 360.1(f)(1)(xi) or 373-1.1(d)(1)(xviii) of this Title; (xix) bottom ash from the burning of fossil fuel, provided that: (a) the ash has been tested for toxicity by the owner or operator of the generating facility pursuant to a testing protocol approved by the commissioner, and certified to be nontoxic; and (b) the ash is destined for use by a municipality or other governmental entity as a traction agent on roadways; and (xx) noninfectious medical waste, except for material described in section 364.9(i) of this Part. (6-1A NYCRR § 364.1(e))

**EXISTING HAZARDOUS WASTE MANAGEMENT (HWM) FACILITY or EXISTING FACILITY** A facility which was in operation or for which construction commenced on or before November 19, 1980. A facility has commenced construction if the owner or operator has obtained the Federal, State and local approvals or permits necessary to begin physical construction, and either: (i) a continuous onsite, physical construction program has begun;

or (ii) the owner or operator has entered into contractual obligations for physical construction of the facility to be completed within a reasonable time which cannot be canceled or modified. (6-1A NYCRR § 370.2(59))

**EXPANDED PARAMETERS** The list of standard chemical species or other samples listed in the Water Quality Analysis Table in § 360-2.11(c)(6) of this Part. (6-1A NYCRR § 360-1.2(53))

**EXPANSION** (I.) In the case of solid waste incineration, processing, and recyclables handling and recovery facilities, an increase in the treatment capacity beyond the limits approved in the permit; and in the case of all other solid waste management facilities, means a horizontal or vertical increase in size of a solid waste management facility beyond the limits approved in the permit. The term "expansion" is also defined in Subpart 360-8 of this Part, for the specific purposes of that Subpart. (6-1A NYCRR § 360-1.2(54)); (II.) A lateral expansion beyond the lateral limits of an existing landfill. (6-1A NYCRR § 360-8.2(c))

**EXPLOSIVES** Explosives are substances that are broken down into three categories for law enforcement and safety purposes. Explosives "A" - substances capable of exploding or detonating in mass when involved in fire or subjected to strong impacts or shocks. When they are involved in fires, all persons should be evacuated for a distance of one mile. When not on fire, they should be protected from being struck, crushed or exposed to fire, or contact with corrosive materials. Explosives "B" - substances capable of burning rapidly, and causing sudden, violent rupture of containers when involved in fires. When they are involved in fire, all persons should be evacuated for a distance of 1/2 mile. When not on fire, they should be protected from being struck, crushed, exposed to fire or contact with corrosive materials. Explosives "C" - substances that are fire hazards. "Dangerous" placards are applied to cars, trailers or freight containers carrying packages bearing the "EXPLOSIVES C" label. If material is involved in a fire, it should be extinguished from a safe distance. When not on fire, the material should be protected from sparks and other sources of ignition. Under certain extreme conditions some of these items can mass detonate.

**EXPORTER, PRIMARY** Any person who is required to originate the manifest for a shipment of hazardous waste in accordance with Part 372 of this Title which specifies a treatment, storage or disposal facility in a receiving country as the facility to which the hazardous waste will be sent and any intermediary arranging for export. (6-1A NYCRR § 370.2(129))

**EXTENUATING CIRCUMSTANCES** Factors surrounding an event that are unusual in that they contributed to the commission of an illegal act, and which are factors over which the criminal had no control.

**EXTREME CARE** The standard of action a reasonable person is required to exercise when confronted with circumstances or conditions that are hazardous.

**FACILITY** (I.) As defined in ECL § 72-0601(1), any establishment for which a general permit has been issued pursuant to ECL § 70-0117(6) of this chapter of any industrial, municipal or private/commercial/institutional (PCI) establishment, or any vessel for which a permit is required under titles seven and eight of article seventeen of this chapter; (II.) As defined in 6-1A NYCRR § 370.2(62) and the Resource Conservation and Recovery Act, a "facility" is all contiguous land, structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of **hazardous waste**. A facility may consist of several treatment, storage, or disposal operational units, e.g., one or more **landfills**, **surface impoundments**, or a combination of them.

**FACILITY, ABANDONED STORAGE** A storage facility which is no longer being maintained in accordance with Article 40 of the ECL or the regulations promulgated thereunder. (ECL § 40-0105(1))

**FACILITY, DESIGNATED** A hazardous waste treatment, storage, or disposal facility which has received a federal Environmental Protection Agency, or New York State Department of Environmental Conservation permit (or has **interim status**) and has been designated on the **manifest** by the **generator** as the **facility** to which the generator's waste should be delivered.

**FACILITY, INDUSTRIAL** Any manufacturing operation including, but not limited to animal feeding operations, aquatic animal production facilities, mining and silvicultural operations, and **solid waste management facilities**. (ECL § 72-0601(2))

**FACILITY MONITORING POINTS** Designated locations for sampling leachate or any other media within the **containment system** of a **solid waste management facility**. (6-1A NYCRR § 360-1.2(55))

**FACILITY, MUNICIPAL** A publicly owned treatment works, including raw discharges and combined sewer overflows. (ECL § 72-0601(3))

**FACILITY, NEW** A **treatment, storage and/or disposal facility** which began operation or for which construction commenced after November 19, 1980. (The Resource Conservation and Recovery Act manual)

**FACILITY OPERATOR** The person who is responsible for the operation of a **treatment, storage or disposal facility** as defined in subdivision sixteen of the ECL § 72-0401. (ECL § 72-0401(3))

**FACILITY, PROCESSING** (I.) A combination of structures, machinery, or devices, other than collection and transfer vehicles, utilized to reduce or alter the volume or the chemical or physical characteristics of solid waste through processes such as, but not limited to separating, baling or shredding before its delivery to a landfill, composting facility, or solid waste incinerator. (6-1A NYCRR § 360-1.2(110)); (II.) A combination of structures, machinery or devices utilized to reduce or alter the volume, chemical or physical characteristics of solid waste, including hazardous waste, through processes such as baling or shredding prior to delivery of such waste to a resource recovery facility, sanitary landfill or incinerator, or hazardous waste treatment, storage, or disposal facility, and excluded collection vehicles. (6-1A NYCRR § 370.2(130))

**FACILITY, TRANSFER** Any transportation related facility including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste are held during the normal course of transportation. (6-1A NYCRR § 370.2(165))

**FACILITY, TREATMENT** Any facility used for resource recovery, incineration, composting, or other processes as approved by the commissioner of the Department of Environmental Conservation through which solid waste is put in order to reduce volume and toxicity. (ECL § 27-0704(1(g)))

**FACILITY, USED ENGINE LUBRICATING OIL RETENTION** Any facility employed to store used lubricating oil by a service establishment or any other person, industrial operation, airport, trucking terminal, or State or local government facility that generates at least 500 gallons of used lubricating oil annually. (6-1A NYCRR § 360-14.2(j)) (6-1A NYCRR § 370.2(181))

**FACILITY, WASTE OIL STORAGE** Any facility that stores waste oil, other than used engine lubricating oil facilities located at the point of generation, including but not limited to those storage facilities used as waste oil transfer station or waste oil reprocessing or rerefining facilities. (6-1A NYCRR § 360-14.2(1))

**FALSIFYING RECORDS** State and Federal environmental regulations require the submission of various documents from those who seek to store, manage, treat or dispose of hazardous waste. The submission of false information intended to mislead a regulatory authority violates State and federal law including Article 175 of the New York State Penal Law and 18 U.S.C. S1001.

**FARM [ING]** The raising or harvesting of any agricultural or horticultural commodity through the cultivation of the soil, or the raising, shearing, feeding, caring for training, or management of livestock, bees, poultry, furbearing animals or wildlife. (6-1A NYCRR § 360-1.2(56))

**FARMER EXCLUSION** In reference to the Resource Conservation and Recovery Act, although farmers can be generators of hazardous waste, they need not comply with the Subtitle C regulations for generators when the wastes being disposed of are pesticides used only by them and the: (1) Empty pesticide containers are triple rinsed; and (2) Pesticide residues are disposed of on the farm following the instructions on the pesticide label.

**FEASIBILITY STUDY** A process undertaken for developing, evaluating and selecting remedial actions, using data gathered during the remedial investigation, to: define the objectives of the inactive hazardous waste disposal site remedial program and broadly develop remedial action alternatives; perform an initial screening of these alternatives; and perform a detailed analysis of a limited number of alternatives which remain after the initial screening stage. (6-1A NYCRR § 375.2(h))

**FEDERAL AGENCY** Any department, agency or other instrumentality of the Federal government, and any independent agency or establishment of the Federal government including any government corporation and the Government Printing Office. (6-1A NYCRR § 370.2(63))

**FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT (FIFRA)** Governs the manufacture, distribution and use of pesticides. Pesticides must be registered with the federal Environmental Protection Agency before distribution and ultimately must be labeled and used in an approved manner.

**FEDERAL POLLUTION ABATEMENT ASSISTANCE** Funds available to a municipality, either directly or through allocation by the state, from the federal government as grants for construction of sewage treatment works, pursuant to section six of the Federal Water Pollution Control Act as enacted by section 1 of the Federal Water Pollution Control Act amendments of 1956 and acts amendatory thereto. (ECL § 17-1903(e))

**FEDERAL, STATE AND LOCAL APPROVALS or PERMITS NECESSARY TO BEGIN PHYSICAL CONSTRUCTION** Permits and approvals required under Federal, State or local hazardous waste control statutes, regulations or ordinances. (6-1A NYCRR § 370.2(64))

**FEIS** Final Environmental Impact Statement.

**FIELD OVERSIGHT** Inspection and observation of work being performed at a site.

**FIFRA** See the Federal Insecticide, Fungicide and Rodenticide Act.

**FILING** The commencement of criminal proceedings by entering a charging document into the official record of a court. Legally, "filing" means entering any document into the record of the court.

**FILL** Fill is not limited to earth, clay, silt, sand, gravel, stone, rock, shale, whole or fragmentary concrete, ashes, cinder, slag, metal, or any other similar material whether or not enclosed or contained by crib work, bulkheads or cofferdams of any type of construction material. (6-2 NYCRR § 608.1)

**FINANCIAL REQUIREMENT REGULATIONS [The Resource Conservation and Recovery Act SUBPART H]** Financial requirements were established to assure that funds are available to pay for closing a facility, for rendering post-closure care at disposal facilities, and to compensate third parties for bodily injury and property damage caused by sudden and non-sudden accidents related to the facility's operation (States and the Federal Government are exempted from abiding by these requirements). There are two kinds of financial requirements: (1) Financial assurance for closure/post-closure and (2) Liability coverage for injury and property damage.

**FINDING** The official determination of a judicial officer or administrative body regarding a disputed matter of fact or law.

**FINE** The penalty imposed upon a convicted person by a court requiring that s/he pay a specified sum of money.

**FINGERPRINTABLE OFFENSE** Following an arrest, or following the arraignment upon a local criminal court accusatory instrument of a defendant whose court attendance has been secured by a summons or an appearance ticket under circumstances described in sections 130.60 and 150.70 of the New York State Criminal Procedure Law, the arresting or other appropriate police officer or agency must take or cause to be taken fingerprints of the arrested person or defendant if an offense which is the subject of the arrest or which is charged in the accusatory instrument filed is: (a) a felony; or (b) a misdemeanor defined in the penal law; or (c) a misdemeanor defined outside the penal law which would constitute a felony if such person had a previous judgment of conviction for a crime. (Criminal Procedure Law § 160.10)

**FIRST WATER BEARING UNIT** First major geologic unit, group of units or portion of a unit, likely to be impacted by contamination from a facility. This includes the migration pathway to that unit and extends to the first demonstrated aquiclude, aquitard, or other demonstrable change in groundwater flow which will impede contaminant migration to lower units. (6-1A NYCRR § 360-1.2(57))

**FISH AND WILDLIFE HABITAT, SIGNIFICANT** Those habitats which: (1) are essential to the survival of a large portion of a particular fish or wildlife population; (2) support rare or endangered species; (3) are found at a very low frequency within a geographic area; (4) support fish or wildlife populations having significant commercial or recreational value; or (5) would be difficult or impossible to replace. (6-2 NYCRR § 505.2)

**FLAMMABILITY HAZARDS** The degree of susceptibility of materials to burning varies. Many materials that will burn under one set of conditions will not under others. The form or conditions of the material, as well as its inherent properties, affects the hazard. The degrees of hazard are ranked according to the susceptibility of materials to burning as follows: Signal 4 - Materials that rapidly vaporize at atmospheric pressure and normal temperature or readily disperse in air and burn readily. This includes Flammable Gases; Cryogenics, Class 1a Flammable Liquids; Dust or Mists that readily form explosive mixtures in the air; Signal 3 - Liquids and solids which can be readily ignited at normal temperatures and conditions. This includes Class 1b Flammable Liquids, Class 1c Flammable Liquids, Materials that ignite spontaneously when exposed to air; Signal 2 - Materials that must be moderately heated or exposed to high ambient temperatures before ignition can occur. This includes Class II Liquids, Solids and Semi-Solids that readily give off flammable vapor; Signal 1 - Materials that must be preheated to burn. Will burn when 1500 F is applied for 5 minutes or longer; Signal 0 - Materials that will not burn when 1500 F is applied for 5 minutes or more. (See also **ignitability** for similar properties defined by federal regulations under the Resource Conservation and Recovery Act).

**FLAMMABLE GASES** A miscellaneous category of gases which can ignite immediately when their **containers** are punctured and/or serious leaks occur. These gases can easily ignite and will result in rapid combustion of the entire cloud. Many of these vapors are heavier than air and can hug the ground for hundreds of yards; ignitable atmospheres may extend well beyond any visible cloud. Fire from leaks in containers that cannot be shut off should be allowed to burn. Tanks containing flammable gases that are exposed to intense fire and flame impingement are likely to rupture violently, involving the immediate area in a large fireball. When compressed gas tank cars are involved in fire or exposed to flame impingement, all persons should be evacuated for 1/2 mile from the scene. When compressed gas cylinders are involved in fires, personnel should remain several hundred yards away. These materials may be **toxic** or irritating. Contact with liquefied gases will produce serious frostbite.

**FLAMMABLE LIQUIDS** A miscellaneous category of liquids that give off flammable vapors that will ignite on contact with an open air flame, spark or hot metal surface. Their vapors are usually heavier than air and will flow into low areas, ditches or ravines. Vapors when ignited burn rapidly spreading the flame back to the source of the spill. Contact with **corrosive** material can cause ignition and should be prevented. Personnel should evacuate areas of vapor concentration and avoid contact with the material. Keep ignition sources out of the area of vapor concentration; smoking, engines and other ignition sources must be prohibited in the area of spills.

**FLAMMABLE SOLIDS** A category of solids that can cause fires by self-ignition or spontaneous combustion if exposed to certain conditions, such as becoming wet, being exposed to air, being crushed, or coming in contact with **corrosive** materials outside heat sources. They are easily ignited and burn readily. They should be isolated from other hazardous materials.

**FLAMMABLE SOLIDS W** Flammable solids W are strongly reactive with water. If these materials are involved in a fire, the use of water must be avoided. Individual packages of these materials will bear the "Dangerous When Wet" label.

**FLAMMABLES** Chemicals that react to oxygen present in the air, or to heat, and give off large quantities of heat in the process.

**FLOATABLES** A term used to identify a broad category of items including plastic items such as popsicle holders, tampon inserters, cutlery, shopping bags, cotton swabs, etc.; foodstuffs, fat balls, milk containers; and other materials commonly placed in the solid waste stream. In the summers of 1987 and 1988, the beaches of New Jersey and New York were closed by the wash-up of various articles known as "floatables."

**FLOOD PLAIN** Any land susceptible to being inundated by water from any source. A 100-year flood plain is that land inundated by a 100-year flood that has a one-percent chance of occurring in any given year. (6-1A NYCRR § 370.2(68))

**FLY ASH** The ash residue from the combustion of solid waste or solid waste in combination with fossil fuel that is entrained in the gas stream of the solid waste incinerator and removed by the air pollution control equipment. (6-1A NYCRR § 360-1.2(60))

**FOOD-CHAIN CROPS** Tobacco, crops grown for human consumption, and crops grown to feed animals whose products are consumed by humans.

**FREEBOARD** The vertical distance between the lowest elevation of the top of a tank or surface impoundment and the surface of the waste contained therein. (6-1A NYCRR § 370.2(71));

**FULL SERVICE PROCUREMENT** An approach whereby a single person is responsible for the solid waste management facility design, construction, start-up, testing, operation, and possible ownership. (6-1A NYCRR § 360-1.2(65))

**FUNGI** All non-chlorophyll-bearing thallophytes (that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews, molds, yeast, and bacteria, except those on or in living man or other animals. (ECL § 33-0101(17))

**FUNGICIDE** Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungi. (ECL § 33-0101(18))

**GALLON** A unit of liquid capacity equal to two hundred thirty-one cubic inches or four quarts. (ECL § 71-2702(9))

**GAMMA RAYS** Electromagnetic waves emitted in the radioactive decay of some radionuclides. Similar to X-rays, though with greater penetrating power, lead or concrete is used for protective shielding.

**GARBAGE** Garbage means putrescible solid waste including animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking or serving of foods. Garbage originates primarily in home kitchens, stores, markets, restaurants and other places where food is stored, prepared, or served. (6-1A NYCRR § 360-1.2)

**GAS** All natural, manufactured, mixed and byproduct gas, and all other hydrocarbons not defined as oil (See also **Chemicals, Synthetic Organic**). (ECL § 23-0101(7))

**GASES, NONFLAMMABLE** Nonflammable gases can cause suffocation of persons entering the gas cloud when leaks occur. Tanks containing nonflammable gases can rupture when exposed to intense fire conditions, and persons should be evacuated for 1/2 mile from the scene. These materials may be **toxic** or irritating. Contact with liquefied gases will produce serious frostbite. When compressed gas cylinders are involved in a fire, personnel should remain several hundred yards away. **WARNING:** Under certain high heat fires, some of these gases, such as Anhydrous Ammonia, will burn.

**GENERAL INTENT CRIMES** General intent crimes require proof that the act was done with a sufficient level of awareness. In other words, **intent** would go to the state of mind of the actor, not to the results of the act. For example, in prosecuting a general intent **hazardous waste** crime, it would have to be proven that the **defendant** knew s/he was **disposing** of a substance, and, further, that s/he was generally aware that the substance was dangerous.

**GENERATOR, HAZARDOUS WASTE** (I.) Any person, by site, whose act or process produces a **hazardous waste** or whose act first causes a hazardous waste to become subject to regulation (ECL § 72-0401); (II.) Any person, by site, whose act or process produces a hazardous waste as defined in Part 371 of this Title, or whose act first causes a hazardous waste to become subject to regulation (6-1A NYCRR § 370.2(73)); (III.) Any person who first creates a hazardous waste, or any person who first makes the waste subject to the Subtitle C regulation (e.g. imports a hazardous waste, initiates a shipment of hazardous waste from a **treatment, storage or disposal facility**, or mixes hazardous wastes of different Department of Transportation shipping descriptions by placing them in a single **container**).

**GENERATOR, LOW LEVEL RADIOACTIVE WASTE** Any person, institution or company/corporation that uses radioactive material and as a consequence, has in their possession low level radioactive waste. Such waste may be the result of manufacturing operations, power generation, medical treatment, research, experimentation, or education.

**GENERATOR, SOLID WASTE** (I.) Any person whose act or process produces a solid waste or whose act first causes a solid waste to be subject to regulation under this Title (6-1A NYCRR § 360-1.2(67); (II.) Any person, by site, whose act or process produces solid waste or whose act first causes a solid waste to become subject to regulation (6-1A NYCRR § 364.1(7)).

**GENERATOR STATE** The state which is the point of origin for a hazardous waste shipment. (6-1 NYCRR § 370.2(74))

**GEOCOMPOSITE** A manufactured material using geotextiles, geogrids, geomembranes, or combination of same, in a laminated or composite form. (6-1A NYCRR § 360-1.2(68))

**GEOGRID** A deformed or nondeformed netlike polymeric material used with foundation, soil, rock, earth, or any other geotechnical engineering-related material as an integral part of the man-made structure or system to provide reinforcement to soil slopes. (6-1A NYCRR § 360-1.2(69))

**GEOMEMBRANE** An essentially impermeable membrane used with foundation, soil, rock, earth, or any other geotechnical engineering-related material as an integral part of a man-made structure or system designed to limit the movement of liquid or gas in the system. (6-1A NYCRR § 360-1.2(70))

**GEONET** A type of geogrid that allows planar flow of liquids and serves as a drainage system. (6-1A NYCRR § 360-1.2(71))

**GEOSYNTHETICS** The generic classification of all synthetic materials used in geotechnical engineering applications, including geotextiles, geogrids, geomembranes, and geocomposites.  
(6-1A NYCRR § 360-1.2(72))

**GEOTEXTILES** Any permeable textile used with foundation, soil, rock, earth, or any other geotechnical engineering-related material as an integral part of a man-made structure or system designed to act as a filter to prevent the flow of soil fines into drainage systems, to provide planar flow for drainage, or to serve as a cushion to protect geomembranes, or to provide structural support. (6-1A NYCRR § 360-1.2(73))

**GROUND WATER PROTECTION REGULATIONS APPLICABLE TO TREATMENT, STORAGE AND DISPOSAL FACILITIES [The Resource Conservation and Recovery Act SUBPART F]** The groundwater protection requirements for permitted facilities are more specific than those found under interim status although they apply to the same treatment, storage, and disposal facilities (surface impoundments, waste piles, land treatment units and landfills). They also differ by requiring the owner or operator to clean up any groundwater contamination. There are three parts to the groundwater protection requirements: (i) a detection monitoring program; (ii) a compliance monitoring program; and (iii) a correction action program.

**GROUNDWATER** (I.) Water within the earth that supplies wells and springs; specifically, water in the part of the ground that is wholly saturated. Contaminated nonsecure sites pose a serious threat to groundwater since the ground is often supersaturated with wastes which expand with every rainfall, therefore, causing these wastes to be forced further into the groundwater table.; (II.) Water below the land surface in the saturated zone of the soil or rock. This includes perched water separated from the main body of groundwater by an unsaturated zone. (6-1A NYCRR § 360-1.2(74)); (III.) Those waters in the zone of saturation, including perched water areas. (6-1A NYCRR § 370.2(75))

**GROUNDWATER MONITORING REGULATIONS APPLICABLE TO TREATMENT, STORAGE AND DISPOSAL FACILITIES [The Resource Conservation and Recovery Act SUBPART F]** Groundwater monitoring is only required of owners or operators of a surface impoundment, landfill, land treatment facility and some waste piles used to manage hazardous waste. The purpose of these requirements is to assess the impact of a facility on the groundwater beneath it. Monitoring must be conducted for the life of the facility except at land disposal facilities, which must continue monitoring for up to 30 years after the facility has closed. The interim status groundwater monitoring program consists of: (1) Development and installation of a monitoring system; (2) Background monitoring; (3) Routine monitoring and evaluation; (4) Conducting assessments; and (5) Reporting requirements.

**GROUNDWATER PROTECTION AREA, SPECIAL** Recharge watershed area within a designated sole source area contained within counties having a population of one million or more which is particularly important for the maintenance of large volumes of high quality groundwater for long periods of time. For the purposes of this article, each "special groundwater protection area" shall be classified as a critical area of environmental concern as used under article eight of ECL. (ECL § 55-0107)

**GROUNDWATER PROTECTION PROGRAM, LOCAL** Strategies, plans and actions developed by appropriate county or local governments, including, but not limited to, identification of areas of critical for protection of groundwater, use of zoning, site plan review and other regulatory powers for groundwater protection and acquisition of lands in areas critical for groundwater protection. (6-2 NYCRR § 591.2)

**GROUNDWATER TABLE** The naturally occurring seasonally high surface of groundwater at which it is subjected to atmospheric pressure. Groundwater table does not include the potentiometric head level in a confined aquifer. (6-1 NYCRR § 360-1.2(75))

**HABITUAL CRIMINAL PROVISION (RECIDIVIST PROVISION)** A law that allows for the imposition of a severe punishment for criminal acts committed more than once. The ECL imposes more severe criminal penalties for subsequent convictions. ECL § 71-2705 provides an example of a habitual criminal provision: ". . . upon conviction thereof, shall for a first conviction be punished by a fine not to exceed twenty-five thousand dollars per day of violation or by imprisonment for a term of not more than one year, or both such fine and imprisonment. If the conviction is for offense committed after a first conviction of such person under this subdivision, punishment shall be by a fine not to exceed fifty thousand dollars per day of violation, or by imprisonment for not more than two years or by both such fine and imprisonment." (ECL § 71-2705(2))

**HALC (Host Area Low Level Radioactive Waste Commission)** A group of people who serve as the liaison for a host community and a Low Level Radioactive Waste disposal facility.

**HALF-LIFE** The period of time it takes for one-half of the total amount of radiation to be released from a radioactive material. The faster the rate of decay and the shorter the half-life, the more intense the radiation and resulting damage.

**HAMMER PROVISION** Statutory requirements that go into effect automatically if the federal Environmental Protection Agency fails to issue regulations by certain dates specified in the statute.

**HAZARDOUS AND SOLID WASTE AMENDMENTS (REGARDING WASTE PILES)(1984)** The Hazardous and Solid Waste Amendments created two new requirements for waste piles. The first requirement allows a waste pile to obtain a waiver from groundwater protection regulations if the waste pile is "an engineered structure" that the Administrator finds does not receive or contain liquid waste, does exclude liquids, and has a multiple leak detection system that prevents waste migration. The second Hazardous and Solid Waste Amendment requirement mandates owners and operators of new waste piles to install an approved leak detection system.

**HAZARDOUS AND SOLID WASTE AMENDMENTS (REGARDING LANDFILLS)(1984)** The Hazardous and Solid Waste Amendments of 1984 (Public Law 98-616) significantly expanded both the scope and the coverage of the Resource Conservation and Recovery Act. Following promulgation of the **interim status regulations**, Congress determined that existing requirements for **land disposal** (both interim and permit), were inadequate to protect the health and the **environment** and adopted the position of discouraging **land disposal**. This stance is reflected in Hazardous and Solid Waste Amendments. Specifically, no bulk or non-containerized liquid hazardous waste, non-hazardous liquid waste, or hazardous waste

containing free liquids can be disposed of in either an interim or permit status landfill. This is to prevent the formation of hazardous **leachate** that could migrate and cause surface- or **groundwater contamination**. An exemption to the ban on disposing of non-hazardous liquid wastes may be obtained if the only reasonably available disposal method for such liquids is a **landfill** or unlined **surface impoundment** which may already contain hazardous wastes and which will not present a risk of contamination to the underground sources of drinking water. Containers holding free liquids also can be placed in a landfill if the liquid has been solidified or decanted, or the container is very small, e.g., an ampule. Finally, small containers in overpacked drums containing liquids (lab packs) may, if properly prepared, be placed in a landfill. In addition to the ban on liquids, expanded or replaced interim status landfills are required to install double liners and a leachate collection system.

**HAZARDOUS AND SOLID WASTE AMENDMENTS (REGARDING SURFACE IMPOUNDMENTS) (1984)** The Hazardous and Solid Waste Amendments increase the level of leak protection required at **surface impoundments**. Existing surface impoundments in **interim status** must retrofit and install double liners, leachate collection systems, and monitor for **groundwater contamination** by November 8, 1988, or stop receiving, treating or storing **hazardous waste**. Surface impoundments that come under Subtitle C regulation due to additional wastes being considered hazardous have 4 years from the date the new wastes are added to meet the new requirements. Until November 8, 1986, **owners and operators** may apply for variances from these requirements if their impoundments are not located within 1/4 mile of a drinking water well, and have at least one liner (not clay) that is not leaking and in compliance with the Part 264 **groundwater monitoring requirements**. Variances may also be granted to certain waste-water treatment impoundments, impoundments designed, located and operated to prevent leakage, and impoundments in the process of retrofitting due to enforcement action. If any of the exempted impoundments are likely to leak or begin to leak, they must be retrofitted to meet the minimum requirements. New surface impoundments, replacement or lateral expansions of surface impoundments applying for a permit after November 8, 1984, must meet the minimum technological requirements added to Section 3004(o) of the Act by the **Hazardous and Solid Waste Amendments**. These requirements are: (i) The installation of two or more liners; (ii) A leachate collection system between the liners; (iii) Groundwater monitoring. Variances in these requirements may be given by the Administrator if the owner or operator demonstrates that alternative design and operation, together with location characteristics, will prevent migration of **hazardous constituents** into groundwater.

**HAZARDOUS SUBSTANCE** (I.) Any substance which: (1) because of its quantity, concentration, or physical, chemical or infectious characteristics causes physical injury or illness to humans when improperly **treated, stored, transported, disposed of**, or otherwise managed; (2) poses a present or potential hazard to the **environment** when improperly treated, stored, transported, disposed of, or otherwise managed; (3) because of its toxicity or concentration within biological chains, presents a demonstrated threat to biological life cycles when released into the environment; (4) is a substance whose manufacture, processing, contribution in commerce, use, possession or disposal is banned, prohibited, or

limited pursuant to the **Federal Toxic Substances Control Act** (15 USC, § 2601 et seq.); (5) is a **pesticide** whose use or possession is prohibited pursuant to the **Federal Insecticide, Fungicide, and Rodenticide Act** (7 USC 135 et seq.); (6) is a substance defined as a hazardous substance pursuant to the **Federal Comprehensive Environmental Response, Compensation and Liability Act** (42 USC 9601 et seq.); (7) is an **acutely hazardous substance**; (8) is a **hazardous waste** as identified and listed in Part 371 of this Title; or (9) is **petroleum**. (6-2 NYCRR § 597.1); (II.) Any substance listed as a substance hazardous to the public health, safety, or the environment in regulations promulgated pursuant to the article 37 of ECL, provided however, that the term "hazardous substance" shall not include petroleum as defined in section 17-1003 and article 40 of ECL. (III.) In 1986, partially in response to the problems surrounding the adoption of hazardous waste regulations, the legislature amended the enforcement section to criminalize the mismanagement of **substances hazardous to public health, safety or the environment**. (See ECL Section 71-2702 (10) followed by Sections 71-2710 to 71-2714. Hazardous substance includes everything defined as hazardous waste by the New York State Department of Environmental Conservation and everything identified by the same as a substance hazardous to public health, safety or the environment pursuant to ECL Section 37-0103. (The list can be found in 6 NYCRR Part 597.2).

**HAZARDOUS WASTE** means a waste or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may: a) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed, or otherwise managed. (ECL § 27-0901)

**HAZARDOUS WASTE CONSTITUENT** A component of a waste that due to its characteristics caused the Commissioner of the Department of Environmental Conservation to list it as a **hazardous waste** in section 371.4 of this Title, or a constituent listed in section 371.3(e). (6-1A NYCRR § 370.2(77))

**HAZARDOUS WASTE FACILITIES, COMMERCIAL** A facility that receives from off-site any **hazardous waste** from any **person** that is not part of the same trust, firm, joint-stock company, **corporation** (including a government corporation), partnership, association, state, Federal government and any agency thereof, municipality, commission, political subdivision of the state, or any interstate body, except when small quantities of hazardous wastes from public bodies are accepted on an emergency basis. Treatment, storage and disposal units located at commercial facilities are not considered part of the commercial facility if they manage only hazardous waste initially generated **onsite** resulting from the recycling of characteristic hazardous wastes or the reclamation of precious metals. (6-1A NYCRR § 370.2)

**HAZARDOUS WASTE GENERATION** The act or process of producing **hazardous waste**. (ECL § 27-0901(4))

**HAZARDOUS WASTE MANAGEMENT** The systematic control of collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes. (ECL § 27-0901(5)); (6-1A NYCRR § 370.2(78))

**HAZARDOUS WASTE MANAGEMENT FACILITY** All contiguous land, and structures, other appurtenances and improvements on the land, used for treating, storing or disposing of hazardous waste. A facility may consist of several treatment, storage or disposal operational units. (6-1A NYCRR § 370.2(79))

**HAZARDOUS WASTE MANAGEMENT FACILITY, NEW** A facility which began operation or for which construction commenced after November 19, 1980. See also existing hazardous waste management facility. (6-1A NYCRR § 370.2(111))

**HAZARDOUS WASTE MANAGEMENT UNIT** A contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is a significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system, and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed. (6-1A NYCRR § 370.2(80))

**HAZARDOUS WASTE PROGRAM, STATE** Those activities of the Department of Environmental Conservation as specified in titles three, seven, nine, and eleven of article twenty-seven of Chapter 72 related to hazardous waste and related enforcement activities. (ECL § 72-0401(12))

**HAZARDOUS WASTE REMEDIAL FUND(HWRF)** Under New York State policy, state cleanup costs have been funded from monies in the Hazardous Waste Remedial Fund prior to expenditure of Environmental Quality Bond Act funds. The remedial fund is comprised of three types of accounts: Investigation and Construction Account, the Industry Fee Transfer Account, and Settlement Accounts.

**HAZARDOUS WASTE SITE REMEDIATION PROJECT** Means the same as the term "inactive hazardous waste disposal site remedial program" as defined in subdivision three of section 27-1301 of ECL. (ECL § 52-0101)

**HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITY, INDUSTRIAL** A specialized facility or site other than a low-level radioactive waste management facility subject to the provisions of article twenty-nine of Chapter 27 of the ECL, or a sewage treatment facility for the purpose of treating, storing, compacting, recycling, exchanging, or disposing of industrial hazardous waste materials, including treatment, compacting, idealization, processing, or final disposal of hazardous waste,

including but not limited to mechanical, chemical or thermal processing systems, incinerators, sanitary landfills, other facilities for the storage, reduction or conversion of hazardous waste, including but not limited to transfer stations, baling facilities, railroad and maritime facilities, motor trucks or vehicles and appurtenances, furnishings, equipment and machinery deemed necessary thereto. (ECL § 27-1101(5))

**HEALTH HAZARDS** A health hazard is any property of a material that either directly or indirectly can cause injury or incapacitation, either temporary or permanent, from exposure by contact, inhalation, or ingestion. Degrees of hazard are ranked according to the probable severity of hazard to humans as follows: Signal 4 -Materials too dangerous to health to expose to fire fighters. A very short exposure could cause death or major residual injury even with prompt medical attention. Includes materials that can penetrate rubber or under normal or fire conditions emit extremely hazardous gases (**toxic** or **corrosive**); Signal 3 - Extremely hazardous to health. Short exposure could cause serious temporary or residual injury even with prompt medical attention. Gives off highly toxic combustion products or is corrosive to living tissue or toxic absorption. May be entered with extreme care provided no skin surface is exposed; Signal 2 - Materials that under intense or continued exposure could cause temporary or possible residual injury unless prompt medical attention is given. May give off toxic vapors that lack warning properties or are highly irritating; Signal 1 - Materials that cause irritation but only minor residual injury even without treatment. No skin destruction. Slight hazard to health; Signal 0 - No hazard beyond normal material.

**HEARING** A proceeding in which arguments, witnesses, or evidence are heard by a judicial officer or administrative body.

**HEARING, PROBABLE CAUSE** A proceeding before a judicial officer in which arguments, witnesses or evidence is presented and in which it is determined whether there is sufficient cause to hold the accused for trial or the case should be dismissed. A probable cause hearing is often called a "preliminary hearing," "preliminary examination," or "felony preliminary" and sometimes an "examining trial." A decision on the question of bail is sometimes made at this time. A decision to hold the accused for trial is referred to as a decision to "bind over" the accused.

**HEARSAY EVIDENCE** Often evidence that is inadmissible at trial because it is not knowledge gained first hand by the witness, but is information learned from another person.

**HEAVY METALS** Heavy metals, among the most important being **lead**, arsenic, zinc, cadmium, copper, and **mercury**, pose a variety of **health hazards**. In sufficient quantities, heavy metals are poisonous and are especially **toxic** to the human nervous system. In their elemental form, heavy metals are toxic (meaning that they can never break down into less toxic, simpler substances), however, they can be neutralized for a time only to retain the potential to be converted back into their toxic form at any time. Modern industry makes substantial use of selenium, beryllium, cadmium and those heavy metals mentioned above.

**HIGH MANAGERIAL AGENT** An officer of a corporation or any other agent in a position of comparable authority with respect to the formulation of corporate policy or the supervision in a managerial capacity of subordinate employees. (Penal Law, Book 39, Art. 20, Sect. 20.20)

**HIGH LEVEL RADIOACTIVE WASTE (HLRW)** That waste which occurs as a result of nuclear reactor operation consisting of irradiated reactor fuel, the liquid waste that results from the chemical reprocessing of spent fuel, and the solid forms of that liquid waste. Regulated by the federal government, the required method of disposal of HLRW is in an approved geologic repository site.

**HOLD HARMLESS CLAUSE/AGREEMENT** In environmental offending, a company that has a contaminated property will try to get rid of it as soon as possible if it poses a threat of lawsuits for damages or remediation. This landholder will insert a hold harmless clause in an attempt to bar all future lawsuits, and this clause will represent an attempt to place the entire liability for any damages on the new landholder.

**HOLDING COMPANY** A large corporation which controls a dominant interest in another corporation so that it is enabled to dictate their policies through voting power.

**HOST COMMUNITY** The county, town, or village where a low level radioactive waste disposal facility is located. This term is also used in regard to solid waste burn plants, etc.

**HYDROCARBONS** See Chemical, Synthetic Organic.

**IGNITABILITY** The federal Environmental Protection Agency identifies a waste as having the characteristic of ignitability when it exhibits any of the following properties: (a) a liquid, except aqueous solutions containing less than 24 percent alcohol, that has a flashpoint less than 60 C (140 F); (b) a non-liquid capable, under normal conditions, of spontaneous and sustained combustion; (c) an ignitable compressed gas per Department of Transportation regulation; (d) an oxidizer per Department of Transportation regulation.

**IMMINENT DANGER** A situation where a person's health or safety is being immediately threatened.

**IMMINENT HAZARD ORDER** An order used by the responsible agency under the authority of the Resource Conservation and Recovery Act Section 7003 to force any person contributing to an imminent and substantial endangerment to human health or the environment caused by the handling of non-hazardous or hazardous solid waste to take steps to clean up the problem.

**IMMUNITY** A form of protection bestowed upon someone so as to prevent them from being prosecuted by the law.

**IMPLEMENTATION FEASIBILITY PROJECT** . The investigation and evaluation of any one or more of the following: engineering, economic, environmental, technological, administrative, institutional, social and political factors affecting the acceptability of a solid waste management facility or system which the facility is part of for the purpose of determining the feasibility of constructing such proposed facility or establishing such a system. (ECL § 27-0501(3))

**IMPROVEMENT** Any change in or addition to land, including but not limited to grading, filling, excavating or adding banks, fences, dikes, ditches, pipelines, poles, electrical conduits, roads, streets, curbs, gutters, sidewalks, driveways, parking lots or spaces. (ECL § 15-2703(6))

**IN OPERATION** A facility which is treating, storing or disposing of hazardous waste. (6-1A NYCRR § 370.2(89))

**INACTIVE HAZARDOUS WASTE DISPOSAL SITE REMEDIAL PROGRAM** See Remedial Program, Inactive Hazardous Waste Disposal Sites.

**INACTIVE HAZARDOUS WASTE DISPOSAL SITE** (I.) Any area of structure used for the long term storage or final placement of hazardous waste including, but not limited to dumps, landfills, lagoons, and artificial treatment ponds, as to which area or structure no permit or authorization issued by the Department of Environmental Conservation or a federal agency for the disposal of hazardous waste was in effect after the effective date of the ECL Article 27, Title 13. (ECL § 27-1303(2)); (II.) "Inactive hazardous waste disposal site" has the same meaning set forth in section 27-1301(3) of the ECL. (6-1A NYCRR § 375.2(j))

**INACTIVE HAZARDOUS WASTE SITE CLASSIFICATIONS** Class 1 - causing or presenting an imminent danger of causing irreversible or irreparable damage to the public health or environment-immediate action required; Class 2 - significant threat to the public health or environment - action required; Class 2a - temporary classification assigned to sites that have inadequate and/or insufficient data for inclusion in any of the other classifications; Class 3 - does not present a significant threat to the public health or environment - action may be deferred; Class 4 - site properly closed-requires continued management; Class 5 - site properly closed-no evidence of present or potential adverse impact-no further action required; Delisted - site is no longer considered a hazardous waste site.

**INACTIVE HAZARDOUS WASTE SITE PROGRAM, DEPARTMENT OF HEALTH**  
The Department of Health's responsibilities in the Inactive Hazardous Waste Site Program are to investigate and assess exposure, determine its health significance, prompt or provide health interventions as necessary and provide information and advice on health effects to protect the health of the citizens of New York State. The primary responsibility for the program lies with the Center for Environmental Health. Activities are carried out by the Division of Environmental Health Assessment's Bureau of Environmental Exposure

Investigation, Bureau of Toxic Substance Assessment and the Bureau of Environmental Epidemiology and Occupational Health. Support services are provided by the Wadsworth Center for Laboratories and Research, The Bureau of Cancer Epidemiology, the Bureau of Public Water Supply and the Division of Legal Affairs. The Health Department's main objectives in the Inactive Hazardous Waste Site Program are: (1) inspect and rank **inactive hazardous waste sites**; (2) determine the potential for human exposure to chemicals at a site; (3) estimate the health risk from such exposure; (4) provide necessary public health interventions to minimize, or if possible eliminate exposure; (5) provide advice and recommendations to those exposed and their health care providers; (6) develop and maintain registries on populations with known exposures to **hazardous substances**; (7) design epidemiological studies in cases of known exposure to determine the actual health effects associated with specific sites; and (8) participate in negotiations and litigations to provide expert testimony and affidavits to ensure public health issues are addressed.

**INACTIVE HAZARDOUS WASTE SITES PROGRAM, DEPARTMENT OF ENVIRONMENTAL CONSERVATION** In general, responsibility for inactive hazardous waste sites is divided among four bureaus in the Division of Hazardous Waste Remediation of the Department of Environmental Conservation. The Bureau of Hazardous Site Control is responsible for identifying and investigating sites for remediation, and the Bureaus of Eastern and Western Remedial Action review and approve design and contract documents, while the Bureau of Construction Services oversees remedial construction and monitoring and maintenance of remediated sites. Enforcement against responsible parties is carried out principally by the Division of Environmental Enforcement, with other enforcement actions conducted by the New York State Department of Law (DOL) (Attorney General). The fundamental goal of the State's inactive hazardous waste site program is, wherever possible, to bring responsible parties to remedy the problems they have caused. When responsible parties cannot be located, or lack resources, federal superfund is the first public funding source which the state seeks to use. If neither of these funding sources is available, or if legal action against responsible parties is unsuccessful or prolonged, the state superfund will fund the work from the Remedial Fund or the **Bond Act**. As soon as possible after a suspected inactive hazardous waste disposal site is reported to the Department of Environmental Conservation, the Department initiates the process of site investigation, and if needed, remediation.

**INACTIVE PORTION** That portion of a **facility** which is not operated after November 19, 1980. (6-1A NYCRR § 370.2(81))

**INADVERTENT INTRUDER** A person who, in occupying a low level radioactive waste disposal site after closure, unknowingly is exposed to low level radiation.

**INCINERATION FACILITY, MUNICIPAL SOLID WASTE** A facility that is owned, operated, or utilized by, or under contract with, a municipality or political subdivision and which utilizes high temperature thermal destruction technologies, including combustion for the recovery of thermal value or for the **disposal of municipal solid waste**. (ECL § 19-0306(a))

**INCINERATOR** (I.) An enclosed device using controlled flame combustion to thermally break down **solid waste**, including **refuse-derived fuel**, to an **ash residue** that contains little or no combustible material. (6-1A NYCRR § 360-1.2); (II.) Any enclosed device using controlled flame combustion that neither meets the criteria for classification as a **boiler** nor is listed as an **industrial furnace**. Air pollution consequences of **hazardous waste** incinerators are regulated pursuant to Parts 200, 201, 212, 225 and 257 of this Title. (6-1A NYCRR § 370.2(82)); (III.) Any enclosed device using controlled flame and combustion that neither meets the criteria for classification as a **boiler** or is listed as an **industrial furnace** (the Resource Conservation and Recovery Act); (IV.) An enclosed device using flame combustion, the primary purpose of which is to thermally break down solid, liquid, or gaseous combustible hazardous wastes, producing residue that contains little or no combustible materials. (ECL § 72-0401)

**INCINERATOR, ENERGY RECOVERY** An incinerator in which **household waste** and nonhazardous **industrial/commercial waste** are combusted for energy production. (6-1A NYCRR, § 360-1.2(50))

**INCINERATOR REGULATIONS [The Resource Conservation and Recovery Act SUBPART O]** Incineration, the thermal destruction of primarily organic **hazardous waste** using flame combustion, can reduce large volumes of waste materials to non-toxic gaseous **emissions**. The **interim status** incinerator requirements are only general operating methods, including:  
(i) Achieving normal steady-state combustion conditions before wastes are introduced; and  
(ii) Combustion and emission monitoring.

**INCOMPATIBLE USES** The storage of any **hazardous waste** or **hazardous substances**, as determined by the Department of Environmental Conservation, that may be discharged to or **contaminate the groundwater**. (See also **Contamination, Groundwater**) (ECL § 15-0514(1(b)))

**INCOMPATIBLE WASTE** See **WASTE, INCOMPATIBLE**.

**INDICTMENT** A formal written accusation made by a **grand jury** and filed in a court, alleging that a specified **person(s)** has committed a specific **offense(s)**. The other two types of charging documents are **complaints** and **informations**. The filing of a charging document in a court initiates criminal proceedings against the accused. An indictment, like an information, is usually used in **felony** cases. In some jurisdictions, all felony accusations must be made by a grand jury indictment, and the prosecutorial information is not an

alternative. Ordinarily, the prosecutor presents a bill of indictment to the grand jury for their consideration. If the grand jurors, of their own motion or on the information of others, take notice of an offense and request that a charging document be filed, the document is sometimes called a "presentment."

**INDUSTRIAL FACILITY** See Facility, Industrial.

**INDUSTRIAL FURNACE** Any of the following enclosed devices that are integral components of manufacturing processes and use controlled flame devices to accomplish recovery of materials or energy: (i) cement kilns; (ii) lime kilns; (iii) aggregate kilns; (iv) phosphate kilns; (v) coke ovens; (vi) blast furnaces; (vii) smelting, melting and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters and foundry furnaces; (viii) titanium dioxide chloride process oxidation reactors; (ix) methane reforming furnaces; (x) pulping liquor recovery furnaces; (xi) combustion devices used in the recovery of sulfur values from spent sulfuric acid; (xii) such other devices the commissioner of the Department of Environmental Conservation may, after notice and comment, add to this list on the basis of one or more of the following factors: (a) the design and use of the device primarily to accomplish recovery of material products; (b) the use of the device to burn or reduce raw materials to make a material product; (c) the use of the device to burn or reduce secondary materials as effective substitutes for raw materials in processes using raw materials as principal feed stocks; (d) the use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product; (e) the use of the device in common industrial practice to produce a material product; and (f) other factors, as appropriate. (6-1A NYCRR § 370.2(85))

**INDUSTRY FEE TRANSFER ACCOUNT** A component of the State Hazardous Waste Remedial Fund. It contains money from waste-end assessments paid by industries that generate, transport or treat hazardous waste in New York State. In addition, fees paid by industries that operate petroleum facilities and **hazardous waste treatment/disposal facilities** are included in this account. Funds will be drawn from this account to pay 50 percent of the debt service on the **Environmental Quality Bonds**. The General Fund will pay the remainder.

**INERT INGREDIENT** An ingredient which is not an active ingredient. (ECL § 33-0101(25))

**INFECTIOUS AGENTS** These shall be limited to those organisms that cause disease or an adverse health impact to humans. (ECL § 27-1501(11)). An infectious agent is any organism (such as a virus or a bacteria) that is capable of being communicated by invasion and multiplication in body tissues and capable of causing disease or adverse health impacts in humans. (6-1A NYCRR § 364.9(2)).

**INFECTIOUS WASTE** See **Waste, Infectious**.

**INFILTRATION** Water ordinarily derived from precipitation that permeates a soil layer or solid waste. (6-1A NYCRR § 360-1.2(82))

**INFORMATION** A formal written accusation made by a **prosecutor** and filed in a court, alleging that a specified person(s) has committed a specific offense(s). The other two types of charging document are **complaint** and **indictment**. The filing of a charging document in a court initiates criminal proceedings against the accused. An information, like an indictment, is usually filed in all **felony** cases. Not all **jurisdictions** make use of the information. In some, all felony accusations must be made by grand jury indictment.

**INFRACTION** An offense punishable by **fine** or other penalty, but not by incarceration. These offenses are sometimes disposed of by **administrative proceeding**. Some state codes define a specific, named class of offenses as not punishable by incarceration; others do not. Infractions are sometimes called "violations," however, this more accurately describes violations of **probation** and **parole**.

**INJECTION WELL** A well into which fluids are injected. (6-1A NYCRR § 370.2(87))

**INJUNCTION** A restraining order is issued by a court, and is either a temporary or permanent order, which will cause a person to cease doing a certain thing.

**INNER LINER** A continuous layer of material placed inside a **tank** or **container** which protects the construction materials of the tank or container from the contained **waste** or reagents used to treat the wastes. (6-1A NYCRR § 370.2(88))

**INSECT** Any of the numerous small invertebrate animals generally having a body more or less segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as, for example, beetles, bugs, bees, flies, and to other allied classes of arthropods, whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice, except those on or in a living man. This term shall also include hemotodes. (ECL § 33-0101(24))

**INSECTICIDE** A substance, or mixture of substances, that contains volatile organic compounds, marketed for the purpose of preventing, destroying, repelling, or mitigating any insects, and which is regulated pursuant to article 33 of the Environmental Conservation Law. (6 NYCRR § 235.2)

**INSPECTIONS (TREATMENT, STORAGE AND DISPOSAL FACILITIES)** The Resource Conservation and Recovery Act regulations that require an **owner** or **operator** to develop and follow a written inspection schedule and to assess the status of the facility and detect potential problem areas. Any observations made during the inspections are recorded in the facility's operating log and kept on file for three years. Any problem areas found must be remedied.

**INSTALLATION INSPECTOR** A person who, by reason of his/her knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems. (6-1A NYCRR § 370.2(90))

**INSTALLER** The person responsible for the field handling, storing, placing, seaming, and other installation aspects of geosynthetic panels. (6-1A NYCRR § 360-1.2(83))

**INSTITUTIONAL CONTROL PERIOD** The period of time in which the State maintains control of access to site after closure of a disposal facility. During this period, the State performs environmental monitoring, initiates any remedial action or needed custodial care, and effects intermittent checks of the site and facility.

**INTEGRATED SYSTEM** The solid waste management program selected in the plan to manage the planning unit's solid waste, including but not limited to its minimization at point of generation and its collection, treatment, transfer, storage, processing, materials or energy recovery, and disposal. (6-1A NYCRR § 360-15.2(a))

**INTENT** (I.) Courts have divided criminal offenses into three categories; specific intent crimes, general intent crimes and public welfare crimes. No state court has addressed the issue of under what category should environmental crimes be classified. However, several Federal cases indicate that environmental crimes should be classified as general intent crimes. The structure of the State environmental statutes appear to support the concept that general intent environmental crimes apply in New York State. The legislature has drafted the highest offense in hazardous substance crimes, water crimes, and medical waste crimes to have specific intent. The lower offenses do not have the added intent factors such as defendant's knowing that his/her actions met any of the criteria set forth in section 37-0103 (ECL § 71-2714); or knowing s/he placed another person in imminent danger (ECL § 71-1933[5]). (II.) Courts will assume intent if a reasonable person would believe that a particular result was substantially certain to follow from a particular act. (To insure intent, it is important that the offender be notified that his/her actions are causing or threatening to cause harm.

**INTENTIONALLY** A person acts intentionally with respect to a result or to conduct described by a statute defining an offense when his/her conscious objective is to cause such result or to engage in such conduct. (See also Culpability.) (Penal Law 15.05(1))

**INTERIM AUTHORIZATION** Approval by the federal Environmental Protection Agency of a State hazardous waste program which has met the requirements of section 3006(c) of the Resource Conservation and Recovery Act and applicable requirement of 40 CFR part 271, subpart B (see section 370.1[e] of this Part). (6-1A NYCRR § 370.2(92))

**INTERIM REMEDIAL MEASURE (IRM)** Immediate action taken over the short term to address a release or threatened release of **hazardous substances**. Not intended to be the final remediation of a **site** but is a necessary part of the final remediation. Drum removals and superficial soil removal are two examples of IRMs.

**INTERIM STATUS** A classification that allows **owners and operators of treatment, storage and disposal sites** that were in existence, or for which construction had commenced, prior to November 19, 1980 to continue to operate without a **permit** after this date. Owners and operators of treatment, storage and disposal facilities are eligible for interim status on an ongoing basis if the facility is in existence on the effective date of regulatory changes under the Resource Conservation and Recovery Act that cause the facility to be subject to Subtitle C regulation. Owners and operators in interim status are subject to and must comply with the applicable standards in 40 CFR Part 265. Interim status is gained through the notification process and by submitting **Part A** of the permit application.

**INTERMEDIATE HANDLER** Is a facility that either treats **regulated medical waste** or destroys **regulated medical waste** but does not do both. The term, as used in this Part, does not include transporters. (6-1A NYCRR § 364.9(2)).

**INTERMEDIATE PROCESSOR** Any person who receives separated recyclables only from recyclables handling and recovery facilities and then markets same to other intermediate processors, brokers, or manufacturers. (6-1A NYCRR § 360-1.2(85))

**INTERNATIONAL SHIPMENT** The transportation of **hazardous waste** into or out of the jurisdiction of the United States. (6-1A NYCRR § 370.2(94))

**INTERSTATE AGENCY** An agency or two or more municipalities in different States, or an agency established by two or more States, with the authority to provide for the management of **solid wastes**, and serving two or more municipalities located in different States.

**INVESTIGATION AND CONSTRUCTION ACCOUNT** A component of the State Hazardous Waste Remedial Fund. It contains money from the state's General Fund, payments of fines and penalties, and reimbursement by responsible parties of state expenditures made for site cleanup. These funds have been used to fund program support, site investigations and remedial projects since 1982.

**IONIZATION** The method by which electrons are added or removed from atoms. As a result the atom becomes negatively or positively charged.

**IONIZING RADIATION** Including alpha, beta, and gamma radiation, this type of radiation will strip or displace electrons from atoms and thus produce ions.

**IRREPARABLE INJURY/HARM** Is an injury that cannot be compensated for in law, and requires a court to issue an injunction, because damages cannot be measured accurately.

**ISOTOPES** Any of two or more forms of an element that have similar chemical properties and the same atomic number but different atomic weights.

**JOINT ACTION** see **Consolidated Action**

**JUDGMENT** The statement of the decision of the court, that the **defendant** is convicted or acquitted of the **offense(s)** charged. The term **adjudication** (criminal) as defined in this dictionary, covers **judgments** and **dismissals**.

**JUDICIAL OFFICER** Any person exercising judicial powers in a court of law. There are two types of judicial officer: **judge** and **subjudicial officer**. The latter type includes those probation officers who exercise judicial powers. A judge is distinguished from a subjudicial officer in that the decision of a judge in criminal cases is not subject to **de novo** review and may only be reviewed by a judge of a higher court. Common names for judicial officers vary and include "justices of the peace," "magistrates," "masters," "commissioners," "referees," "hearing officers," and "parajudicial" personnel are typically subjudicial officer, although some jurisdictions may use these terms for what this dictionary defines as a "judge." The authority of a judge is granted by statute or constitution. (See also **Administrative Law Judge**.)

**JURISDICTION** The territory, subject matter, or **person** over which lawful authority may be exercised. Jurisdiction may be determined by constitutional provision or by statute.

**JURISDICTION, CONCURRENT** Occurs when either two courts or a court and a government agency have jurisdiction over the disposition of a case.

**JURY, GRAND** A body of persons who have been selected and sworn to investigate criminal activity and the conduct of public officials and to hear the evidence against an accused **person(s)** to determine whether there is sufficient evidence to bring that person(s) to trial. A trial jury is distinguished from a grand jury in that a trial jury hears a case and renders a **verdict** of guilty or not guilty. A grand jury is only asked to decide whether there is sufficient evidence to cause a person to be brought to trial for a crime. The decision of a grand jury that there is sufficient evidence results in an **indictment**.

**JURY, TRIAL aka JURY, PETIT aka JURY** A statutorily defined number of persons selected according to law and sworn to determine certain matters of fact in a criminal action and to render a verdict of guilty or not guilty. A jury delivers its **verdict** according to the evidence presented at the trial and the judge's instructions as to the law. A trial jury's power and duties are to determine matters of fact, not to interpret the law of the case.

**KNOWINGLY** A person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense when s/he is aware that his/her conduct is of such nature or that such circumstance exists (see also **Culpability**). (Penal Law 15.05)

**LABELING** All labels and other written, printed, or graphic matter: (a) upon the pesticide or any of its containers or wrappers; (b) accompanying the pesticide at any time; and for (c) to which reference is made on the label or in literature accompanying the pesticide, except when accurate, non-misleading reference is made to current official publications of the United States Department of Agriculture or Interior, the United States Public Health Service, state agricultural experiment stations, state colleges of agriculture or other similar federal institutions or official agencies of this state or other states authorized by law to conduct research in the field of pesticides. (See **Dangerous Placards** if information is needed regarding the characteristics, i.e. **flammability**, of waste.) (ECL § 33-0101(29))

**LABORATORY** Means any research, analytical, or clinical facility that performs health care related analysis or service. This includes medical, pathological, pharmaceutical, and other research, commercial, or industrial laboratories. (6-1A NYCRR § 364.9(2)).

**LAND APPLICATION FACILITY** A site where **solid waste** is applied to the soil surface or injected into the upper layer of the soil to improve soil quality or provide plant nutrients. Solid waste suitable for this purpose, includes but is not limited to food processing waste, sewage treatment plant sludge, and **septage**. (6-1A NYCRR § 360-1.2(86))

**LAND BURIAL FACILITY, SECURE** (I.) A land disposal facility meeting the design and operation requirements promulgated by the Department of Environmental Conservation pursuant to Article twenty-seven, Title nine of the ECL, for the proper disposal of **hazardous wastes** so that such wastes are immobilized or otherwise prevented from release to the **environment** or rendered harmless or decomposed into harmless materials within the facility. (ECL § 27-0901(15)); (II.) A land disposal facility meeting the design and operation requirements of Part 373 of this Title for the proper disposal of hazardous wastes, so that such wastes are immobilized or otherwise prevented from release to the environment or rendered harmless or decomposed into harmless materials within the facility. (6-1A NYCRR § 370.2(145))

**LAND BURIAL, SHALLOW** Emplacement of **low-level radioactive waste** in or within the upper thirty meters of the surface of the earth in trenches, holes, or other excavations in which only soil provides structural integrity, a barrier to migration of low-level radioactive waste from, or subsurface water into, such excavation or a barrier to entry of surface water to such excavation or in a manner that fails to allow during the institutional control period for monitoring and control of releases of radioactivity. (ECL § 29-0101(4))

**LAND DISPOSAL** See **DISPOSAL, LAND**.

**LAND DISPOSAL** Any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave. (6-1A NYCRR § 370.2(95))

**LAND FARMING** This is a term used to describe the method of creating soil through the application of wastes into surface soil. The use of waste as a fertilizer or soil conditioner is also considered a method of land farming.

**LAND RECLAMATION** An application of sewage sludge or compost in a large quantity, typically one time only, to lands that marginally support vegetation, for the purposes of revegetation or erosion control. (6-1A NYCRR § 360-1.2(87))

**LAND TREATMENT** A facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface. Such facilities are disposal facilities if the waste remains after closure.

**LAND TREATMENT FACILITY** A facility or part of a facility at which solid waste, including hazardous waste, is applied onto or incorporated into the soil surface. Such facilities are disposal facilities if the waste will remain after closure. (6-1A NYCRR § 370.2(98))

**LAND TREATMENT REGULATIONS APPLICABLE TO TREATMENT, STORAGE AND DISPOSAL FACILITIES** Regulations contained in the Resource Conservation and Recovery Act Subpart M that are applicable to treatment, storage and disposal facilities. An owner or operator may not place hazardous waste in or on a land treatment facility unless the waste can be made less hazardous or non-hazardous. Run-on and run-off collection and management systems must also be installed at the unit. Monitoring the soil beneath the treatment area and comparing it to data on background concentrations of constituents in untreated soils are required to detect vertical migration of hazardous wastes. In addition, waste analysis in or on the land to determine: (i) If any substance in the waste is EP toxic; (ii) The concentration of hazardous waste constituents; and (iii) The concentration of arsenic, cadmium, lead and mercury, if food-chain crops are grown on the land. The requirements prohibit growing food-chain crops in a treated area containing arsenic, cadmium, lead, mercury or other hazardous constituents. This prohibition may be waived if it is demonstrated that such elements or constituents would not be transferred to the food portion of the crop, or if transferred, would not occur in concentrations greater than would be expected in an identical crop grown on untreated soil in the same region. If food-chain crops are grown during post-closure they must be raised in accordance with the requirements established in the regulations. The owner or operator must continue to monitor soil, maintain run-on and run-off management systems, and control wind dispersal after closure. In addition, access to the treatment unit must be restricted.

**LANDFILL** (I.) A **disposal facility** or part of one at which **solid waste**, or its residue after treatment, is intentionally placed in or on the land, and at which solid waste will remain after closure and which is not a landspreading facility; (II.) A **disposal facility** or part of a facility where **solid waste**, including **hazardous waste**, is placed in or on land, and which is not a land treatment facility, a **surface impoundment**, or an **injection well**. (ECL § 27-0901(12)) (6-1A NYCRR § 370.2(96)); (III.) Landfill is a land area that may or may not be excavated, where solid, semisolid, or liquid wastes are emplaced for permanent disposition. Such wastes may or may not be compacted or segregated by soil barriers.

**LANDFILL CELL** (I.) A discrete volume of a **landfill** which uses a **liner system** to provide isolation of **solid waste** from adjacent cells or solid waste. (6-1A NYCRR § 360-1.2(89)); (II.) A discrete volume of a solid or **hazardous waste** landfill which uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are lined trenches and pits. (6-1A NYCRR § 370.2(97))

**LANDFILL CLOSURE PROJECT, MUNICIPAL** Activities undertaken to close a **solid waste disposal landfill** owned or operated by a municipality to achieve compliance with regulations promulgated by the Department of Environmental Conservation. (ECL § 55-0107)

**LANDFILL, EXISTING** A **landfill** that was in operation on December 18, 1983. The lateral limit of an existing landfill is set forth in the **permit or consent order** in effect on that date or by the limits, projected on a horizontal plane, of the actual **solid waste** in place as of December 18, 1983. (6-1A NYCRR § 360-8.2(b))

**LANDFILL GAS RECOVERY FACILITY** A **facility** in which gases produced from the decomposition of **solid wastes** are collected for the purpose of recovery of energy. (6-1A NYCRR § 360-1.2(90))

**LANDFILL, NEW** A **landfill** other than an **existing landfill** or an expansion. (6-1A NYCRR § 360-8.2(d))

**LANDFILL REGULATIONS APPLICABLE TO TREATMENT, STORAGE AND DISPOSAL FACILITIES [The Resource Conservation and Recovery Act SUBPART N]** The federal Environmental Protection Agency acknowledges in principle that it is better to destroy or recycle **hazardous wastes** than to **landfill** them. However, for now and for the foreseeable future, **land disposal** is necessary because at present it is technically infeasible to recycle, treat, or destroy all hazardous waste. The problem that hazardous waste landfills have presented -- and that **interim status** standards address -- can be divided into two broad classes. The first class includes fires, explosions, production of toxic fumes, and similar problems resulting from the improper management of **ignitable, reactive and incompatible wastes**. To deal with these problems, **owners or operators** are required to analyze their wastes to provide enough information for their proper management. They must also control the mixing of incompatible wastes in **landfill cells**. Furthermore, ignitable and reactive

wastes may be landfilled only when they are rendered unignitable or non-reactive. The second class of problems presented by landfills concerns the **contamination of surface and groundwater**. To deal with these problems interim status regulations require: diversion "run-on" (water flowing over the ground onto **active portions** of the facility) away from the active face of the landfill; treatment of any liquid wastes or semi-solid wastes so that they do not contain **free liquids**; proper **closure** (including a cover) and **post-closure** care to control erosion and the infiltration of rainfall; and crushing or shredding most landfilled **containers** so that they cannot later collapse leading to subsidence and cracking of the cover. In addition, the interim status regulation for contamination, and the collection of rainwater and other run-off from the active face of the landfill to control surface water pollution. Segregation of waste, such as acids, which would mobilize, solubilize, or dissolve other wastes or waste constituents also is required (see **Hazardous and Solid Waste Amendments** for further requirements).

**LANDFILL, SANITARY** A tract of land where **Garbage** and **trash** are piled into a trench, compacted and covered over. Sanitary landfills eliminate the problems of rats, flies and odors.

**LANDS** Lands, improvements and structures thereon or rights, franchises, and interests therein, lands under water and riparian rights, and shall also mean any and all interests in lands less than full title, including without limitations, easements, permanent or temporary rights of way, uses, leases, licenses, and any other estate, interests or rights in lands, legal or equitable. (ECL § 52-0101)

**LANDSPREADING FACILITY** A site where **sludge** or **septage** is applied to the soil surface or injected into the upper layer of the soil to improve soil quality or to provide plant nutrients. Sludges suitable for these purposes include food processing waste, winery waste, brewery waste, cannery waste, and sewage treatment plant sludge. (6-1A NYCRR § 364.1)

**LEACHATE** (I.) Any **solid waste** in the form of a liquid, including any suspended components in the liquid, which results from contact with or passage through solid waste. (6-1A NYCRR § 360-1.2); (II.) A liquid, including any suspended components or dissolved compounds in the liquid, which has been in contact with or passed through solid waste, including **hazardous waste**. (6-1A NYCRR § 370.2(99)); (III.) Any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

**LEAD** is an element used in the production of lead paints and lead acid batteries. If one is exposed to lead over long periods of time, brain and bone damage may result.

**LEAK DETECTION SYSTEM** A system capable of detecting the failure of either the primary or secondary containment structure, or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of **aboveground tanks**) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure. (6-1A NYCRR § 370.2(100))

**LEAST EMISSIONS DISPATCH** The utilization of the cleanest facility or other stationary source on a priority basis so that less clean facilities or stationary sources are operated at full capacity only when need arises. (ECL § 19-0903(11))

**LIABILITY, AGGREGATE** The monetary total for all claims, made against a specific policy. The total may be broken down as a listing of the total for one type of claim, and lesser totals for other similar claims.

**LIABILITY, CIVIL** The amount of money a defendant must pay to a plaintiff if found to have caused an injury.

**LIABILITY COVERAGE FOR TREATMENT, STORAGE AND DISPOSAL FACILITIES [The Resource Conservation and Recovery Act SUBPART H]** An owner or operator if financially responsible or liable for bodily injury and property damage to third parties caused by a sudden accidental occurrence or a non-sudden accidental occurrence due to operations at a facility. Sudden occurrences are usually due to an accident, such as an explosion or fire. Non-sudden occurrences take place over a long period of time and include **groundwater** and **surface water contamination**. Separate liability coverage for each of these two types of occurrences must be obtained.

**LIFT** The vertical thickness of compacted **solid waste** and the **cover material** immediately above it. (6-1A NYCRR § 360-1.2(92)); (6-1A NYCRR § 370.2(101))

**LINER** (I.) A continuous layer of natural or synthetic materials, beneath or on the sides of a **surface impoundment**, **landfill** or **landfill cell**, which restricts the downward or lateral escape of solid waste, including **hazardous waste**, any constituents of such waste, or **leachate**. (6-1A NYCRR § 370.2(102)); (II.) A continuous layer of natural or man-made materials, beneath or on the sides of a surface impoundment, landfill, or landfill cell, which restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate.

**LINER SYSTEM** A continuous layer of natural or man-made materials, beneath or on the sides of a **landfill** which restricts the downward or lateral escape of **solid waste**, any constituents of solid waste, or **leachate**. (6-1A NYCRR § 360-1.2)

**LIQUIDS, FREE** Liquids which readily separate from the solid portion of a solid waste under ambient temperature and pressure. (6-1A NYCRR § 360-1.2(64))

**LISTED** Hazardous wastes that have been placed on one of three lists developed by the federal Environmental Protection Agency: Non-specific source wastes; Specific source wastes; Commercial chemical products. These lists were developed by examining different types of waste and chemical products to see if they exhibit one of the four characteristics, meet the statutory definition of hazardous waste, are acutely toxic or acutely hazardous, or are otherwise toxic.

**LISTINGS OF HAZARDOUS WASTE** A solid waste is considered hazardous by the federal Environmental Protection Agency if it is named on one of its three lists: (1) Non-Specific Source Wastes -- 40 CFR Section 261.31 -- These are generic wastes, commonly produced by manufacturing and industrial processes. Examples from this list include spent halogenated solvents used in degreasing, and wastewater treatment sludge from electroplating processes; (2) Specific Source Wastes -- 40 CFR Section 261.32 -- This list consists of wastes from specifically identified industries such as wood preserving, petroleum refining and organic chemical manufacturing. These wastes typically include sludges, still bottoms, wastewaters, spent catalysts, and residues, e.g., wastewater treatment sludge from the production of pigments; (3) Commercial Chemical Products -- 40 CFR Section 261.33(e) and (f) -- The third list includes chemicals such as chloroform and creosote, acids such as sulfuric acid and hydrochloric acid, and pesticides such as DDT and kepone. These lists were developed by the Environmental Protection Agency by examining different types of wastes and chemical products to see if they: (a) exhibit one of the four characteristics of a hazardous waste (Corrosivity, Ignitability, Reactivity or EP Toxicity); (b) meet the statutory definition of hazardous waste; (c) are acutely toxic or acutely hazardous; or (d) are otherwise toxic. Any solid waste that fulfills one or more of these criteria are placed on one of the three lists.

**LOCAL AGENCY** Any local agency, board, district, commission or governing body, including any city, county, and other political subdivision of the state. (ECL § 8-0105)

**LOCATION STANDARDS (TREATMENT, STORAGE AND DISPOSAL FACILITIES)** These Resource Conservation and Recovery Act requirements only apply to owners or operators who are obtaining a permit for a new facility. Current location standards prohibit siting a new facility in a location where floods, etc. could affect a waste management unit, possibly causing wastes to be released. The Hazardous and Solid Waste Amendments call for the federal Environmental Protection Agency to define areas of vulnerable hydrogeology and to develop criteria for acceptable facility locations. Regulating the location of existing facilities also must be considered.

**LLRW** Low-Level Radioactive Waste.

**LOW-LEVEL RADIOACTIVE WASTE (LLRW)** Those radioactive waste materials not classified as high-level radioactive waste (transuranic waste, spent fuel, or mill tailings). Some LLRW is regulated by the federal government and are not allowed in LLRW disposal sites. For example those LLRW that exceed Class C concentration limits as set by the federal government (see **tranuranics waste**).

**LOWER EXPLOSIVE LIMIT** The lowest percentage by volume of a mixture of explosive gases which will propagate a flame in air at 25 C and atmospheric pressure. (6-1A NYCRR § 360-1.2(94)); (6-1A NYCRR § 370.2(104))

**LUBE STOCK** The base petroleum fraction that is used to formulate lubricating oil. (6-1A NYCRR § 360-14.2(b))

**MANAGEMENT or HAZARDOUS WASTE MANAGEMENT** The systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste. (6-1A NYCRR § 370.2(105))

**MANGANESE** An element found in metallurgical processes, and in the production of aluminum. Manganese poisoning in humans can cause sleepiness, muscle cramps, and emotional psychosis.

**MANIFEST** (See also **Manifest, Uniform Hazardous Waste**) (I.) The form used for identifying the quantity, composition and the origin, routing and destination of **hazardous waste** during its transportation from the point of **generation** to the point of **disposal, treatment, or storage** (ECL § 27-0901(6)); (II.) Uniform Hazardous Waste Manifest and Instructions as found in Appendix 30 of the ECL, a shipping document federal Environmental Protection Agency form 8700-22, or any other shipping document having been approved by the commissioner of the Department of Environmental Conservation, or the administrator of Environmental Protection Agency. (6-1A NYCRR § 370.2(106))

**MANIFEST DOCUMENT NUMBER, STATE** The number found in box A of the manifest. (6-1A NYCRR § 370.2(155))

**MANIFEST SYSTEM, RECORDKEEPING AND REPORTING REQUIREMENTS FOR TREATMENT, STORAGE AND DISPOSAL FACILITIES [The Resource Conservation and Recovery Act SUBPART E]** These requirements specify that the **manifest** be returned from the **facility owner or operator** to the **generator**, thus completing the manifest loop established in 40 CFR Part 262, the manifest regulations. In addition to the manifest requirements, Subpart E also includes requirements for recordkeeping and reporting including operating records, biennial reports, unmanifested waste reports and reports on releases, **groundwater contamination** and closure. Records and reports provide the regulating authority information used in assessing compliance with the **hazardous waste** regulations. They also provide facility owners and operators, and local authorities, with information which may be used in responding to emergencies.

**MANIFEST, UNIFORM HAZARDOUS WASTE aka MANIFEST** The Resource Conservation and Recovery Act Subtitle C program was designed to manage hazardous waste from cradle to grave. The Uniform Hazardous Waste Manifest (the manifest) is the key to this objective. Through the use of a manifest, generators can track the movement of hazardous waste from the point of generation (the cradle) to the point of ultimate treatment, storage, or disposal (the grave). The Resource Conservation and Recovery Act manifests contain a lot of information including the following: (a) Name and EPA Identification Number of the generator, the transporter(s), and the facility where the waste is to be treated, stored, or disposed of; (b) U.S. Department of Transportation description of the waste being transported; (c) quantities of the waste being transported; (d) address of the treatment, storage, or disposal facility to which the generator is sending his/her waste (the designated facility); in addition, the Hazardous and Solid Waste Amendments require that each manifest certify that: (e) the generator has in place a program to reduce the volume and toxicity of the waste to the degree economically practicable, as determined by the generator; and (f) the treatment, storage or disposal method currently available that minimizes the risk to human health and the environment. It is important for the generator to prepare the manifest properly since s/he is responsible for the hazardous waste s/he produces and its ultimate disposition. The manifest is part of a controlled tracking system. Each time the waste is transferred, e.g., from a transporter to the designated facility or from a transporter to another transporter, the manifest must be signed to acknowledge receipt of the waste. A copy of the manifest is retained by each link in the transportation chain. Once the waste is delivered to the designated facility the owner or operator of the facility must send a copy of the manifest back to the generator. This system ensures that the generator has documentation that the hazardous waste has made it to the ultimate destination. Because the purpose of a manifest is to track hazardous waste off-site, it is not required for generators who treat, store, or dispose of their waste onsite.

**MANIFESTS** Manifests are documents unique to the transportation of hazardous wastes and medical wastes. The concept originated with the Resource Conservation and Recovery Act (RCRA), which requires documenting from "cradle to grave" the movement of hazardous wastes. The manifest indicates the generator, the type and quantity of waste, the transporter's identity and ultimate destination. Each individual or corporation signs the manifest as it moves from generator to disposer. Under the Federal scheme the generator notifies the federal Environmental Protection Agency if it does not receive a signed manifest from the disposal point within a certain time period prescribed by regulation. New York uses the Federal scheme for regulated medical wastes. New York uses a different manifest scheme for hazardous wastes. Authorized by ECL § 27-0905, the Department of Environmental Conservation promulgated 6 NYCRR Part 372 to regulate the manifest system. Under New York's manifest system, when a shipment of hazardous waste is relinquished to a transporter, the generator must send a copy of the manifest to the Department of Environmental Conservation. When the ultimate disposal point receives the waste, it must send a copy to the generator and the Department of Environmental Conservation. The generator, transporter and disposal facility must also maintain a copy of the manifest for each shipment for three years. When a generator does not receive a

copy of a fully executed manifest within 20 days, it must notify the Department of Environmental Conservation. (If not notified, the Department will have independent knowledge of a problem through its own records as well.) The failure to notify and/or improper completion of the manifest (i.e., quantities or type of wastes) are technically unclassified misdemeanors pursuant to ECL § 71-2705(2). (For Federal regulations under RCRA, see **Manifest, Uniform Hazardous Waste.**)

**MARINE DISTRICT** See **District, Marine.**

**MASTER LAND USE PLAN** A long-term, general outline of projected development which has been lawfully adopted by the local planning authority. (6-1A NYCRR § 361.1(12))

**MEDICAL WASTE** Means any solid waste which is generated in the diagnosis, treatment (e.g., provision of medical services), or immunization of human beings or animals, in research pertaining thereto, or in the production of testing of biologicals. The term does not include any **hazardous waste** identified or listed under section 27-0903 article 27 of the ECL or any household waste as defined in regulations promulgated under section. (6-1A NYCRR § 364.9(2)).

**MEDICAL WASTE TRACKING ACT** In December 1988, the United States Congress enacted the Medical Waste Tracking Act. The act has only a three year life. However, it imposes upon New York State a requirement to **manifest** or document the movement of **regulated medical waste** from generation to **disposal**. The Federal definition of regulated medical waste is more broad than the State's definition of **infectious waste**. For example, it is not limited to wastes emanating from patients on isolation and includes such fairly innocuous materials such as bloody bandages. In June 1989, the New York Legislature enacted a recodification of Article 27, Title 15. New York will now manifest and oversee regulated medical waste. The definition of regulated medical waste found in ECL § 27-1501 not only includes the Federal definition but extends further to include veterinarian medical wastes as well. Criminal sanctions were increased from an unclassified misdemeanor and class E felony to a class D felony. The criminal sanctions are similar to the provisions governing **hazardous substance** crimes in that the particular classification will depend upon the quantity of medical waste involved. New York State regulatory sections, ECL Sections 27-1503 to 27-1515 are unique. For example, there are statutory requirements as to the type of **containers**, **labeling** and color of the bags used for medical waste disposal. Within the health care industry medical waste is known as "red bag waste" because traditionally such wastes were kept in red bags. Red bags are now mandated by ECL § 27-1501.

**MERCURY** Is an element used in various metallurgical processes and chemical production. Poisoning in humans can lead to brain damage and central nervous disorders.

**MIDNIGHT DUMPING** (slang). An illegal practice involving the disposal of hazardous, toxic, corrosive, flammable, or otherwise environmentally damaging substances in solid, semi-solid, or liquid form, in a place where such activity is prohibited by law, which include, but are not limited to municipal sewers; surface or subsurface, fresh or salt, inland or coastal waters; abandoned tank trucks; wells; unlicensed dumps; road sides and surfaces; pits; ponds; natural depressions; and in legal garbage dump sites not prepared or licensed for hazardous waste. The term "midnight dumping" comes from the common practice of carrying out the illegal dumping in the middle of the night to avoid detection.

**MISBRANDED** Shall apply to any pesticide: (a) if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular; (b) if it is an imitation of or is offered for sale under the name of another pesticide; or if its labeling bears any reference to registration under this article; (c) if the labeling accompanying it does not contain instructions for use which are necessary and, if complied with, adequate protection for the public; (d) if the label does not contain a warning or caution statement which may be necessary and, if complied with, adequate to prevent injury to health and the environment; (e) if the label is not visible and readable on the outside of the marketing package which is presented or displayed under customary conditions of purchase; (f) if any word, statement, or other information required by or under the authority of this article to appear on the labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; (g) if in the case of an insecticide, fungicide, or herbicide, when used as directed or in accordance with commonly recognized practice, it shall be injurious to living humans or other vertebrate animals or vegetation, except weeds, to which it is applied, or to the person applying such pesticide; or (h) if in the case of a plant regulator, defoliant, or desiccant when used as directed it shall be injurious to living humans or other vertebrate animals, or vegetation to which it is applied, or to the person applying such pesticide, provided, that, physical or physiological effects on plants or parts thereof shall not be deemed injurious, when this is the purpose for which the plant regulator, defoliant, or desiccant was applied, in accordance with the label claims and recommendations; and/or (i) if its labeling in any other way fails to conform to the labeling requirements of the **Federal Insecticide, Fungicide, and Rodenticide Act** of 1972, as amended. (ECL § 33-0101(32))

**MISDEMEANOR** An offense usually punishable by incarceration in a local confinement facility, for a period of which the upper limit is prescribed by statute in a given jurisdiction, typically limited to less than a year. One of the two major classes of **crimes**, the other being **felonies**. Misdemeanors are generally regarded as less harmful than felonies.

**MONITORING AND ANALYSIS ORDER** Used to evaluate the nature and extent of a substantial hazard to human health or the environment that exists at a **treatment, storage and/or disposal facility**. It can be issued to either the current **owner** or to a past owner or operator if the facility is not currently in operation or the present owner could not be expected to have actual knowledge of the potential release.

**MONOFILL** "Monofill" has two separate and distinct definitions which are dependent upon usage: (I.) A "monofill" is a **landfill** or **landfill cell** into which only one type of waste is placed (6-1A NYCRR § 360-1.2(96)); or (II.) A "monofill" is a specific type of landfill where the waste provides the fill and **daily cover**, forms the **liner**, and in some cases, forms the final cap (6-1A NYCRR § 370.2(108)).

**MOTION** An oral or written request made by a **party** to an **action**, before, during or after a trial, that a court issue a rule or order.

**MOVEMENT** That volume of **hazardous waste** transported to a **facility** in an individual vehicle. (6-1A NYCRR § 370.2(109))

**MUNICIPAL CORPORATION** A county, city, town or village or an entity designed to act on behalf of such. (ECL § 17-1403(2))

**MUNICIPAL FACILITY** See **Facility, Municipal**.

**MUNICIPALITY** (I.) A town, city, county, village or a designated public agency thereof, or a public authority (6-1A NYCRR §362.2(d)); (II.) A county, village, town, city, any designated agency thereof, a solid waste management district, a public benefit corporation having power granted under ECL article 51, to construct, operate, and maintain a **solid waste management facility**, including a public corporation created pursuant to agreement or compact with another state; any combination thereof (6-1A NYCRR § 360-1.2).

**MUTAGEN** Substances that cause a change in the genetic material of a cell, inheritable from cell to cell and sometimes between generations. These changes in genetic material can cause what is commonly known as birth defects.

**NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)** Is a federal act that requires all other government agencies to submit an environmental impact statement for every program that would affect the environment.

**NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES)** This is a national program (see 33 U.S.C.A. § 1251) for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under sections 301, 302, 306, 307, 318, 402 and 405 of the Clean Water Act (see section 370.1[e] of this Part). (6-1 NYCRR § 370.2(110), (ECL § 17-0105(14))

**NATIONAL PRIORITIES LIST(NPL)** Federal listing of sites eligible for remediation through the Federal Superfund program.

**NATURAL PROTECTIVE FEATURES** Shall mean without limitation, beaches, dunes, shoals, bars, spits, barrier islands, bluffs, and wetlands; associated natural vegetation shall also be considered as part of such natural protective features. (ECL § 34-0103(8))

**NATURAL RESOURCE DAMAGE ASSESSMENT** Study done to evaluate damages caused to natural resources by a responsible party and to determine the monetary value of the damage.

**NATURAL RESOURCE DAMAGE CLAIM** The money owed by a responsible party to New York State for damages to natural resources.

**NATURAL RESOURCES** Minerals, water, timber, etc. that occur in nature and are valuable for manufacturing etc.

**NEGLIGENCE** See Culpability.

**NEUTRON** An electrically neutral part of an atom having a mass approximately equal to that of a proton and used to split atoms in fission.

**NEW YORK CODES, RULES AND REGULATIONS (NYCRR)** NYCRR is prepared by the Secretary of the State of New York pursuant to statutory duty from all codes, rules, and regulations filed with the Department of State by the state departments and agencies. Specifically excluded from publication, however, are those codes, rules and regulations relating solely to organization or internal management of such government units. Titles 6, 6-A-1 and 6-A-2 of the NYCRR are composed of codes, rules and regulations regarding environmental offenses.

**NOISOME** Injurious, harmful, or very offensive, particularly to the sense of smell.

**NOISOME OR UNWHOLESOME SUBSTANCES, DISPOSAL OF** Section 71-3501 of the ECL penalizes the disposal, abandonment or containment of noisome or unwholesome substances. This section provides that a person who "deposits, leaves or keeps, on or near a highway or route of public travel, either on land or in the water, any noisome or unwholesome substance. . . is guilty of a misdemeanor." This provision is used most frequently to deter the improper disposal of construction debris.

**NOLO CONTENDERE** A defendant's formal answer in court, to the charges in a complaint, information, or indictment, in which s/he states that s/he does not contest the charges, and which, while not an admission of guilt, subjects him/her to the same legal consequences as a plea of guilty.

**NONPOINT SOURCE ABATEMENT PROGRAM** A program of activities and projects for the abatement and reduction of **nonpoint source** pollution through the implementation of best management practices. (ECL § 17-1403(4))

**NOT-FOR-PROFIT CONSERVATION ORGANIZATION** Means a not-for-profit corporation organized inter alia for the conservation or preservation of **real property** and which has the power to acquire interests in real property. Such organization must have qualified as exempt for federal tax purposes pursuant to Section 501(c)(3) of the internal revenue code or any similar successor statutory provision. (ECL § 49-0303(2))

**NOTICE OF INTENT** A notice to the Commissioner of the Department of Environmental Conservation describing a proposed project and requesting an evaluation of eligibility for aid. (6-1A NYCRR § 362.2(i))

**NRC** Nuclear Regulatory Commission (U.S.).

**NYSERDA** New York State Energy Research and Development Authority.

**OCEAN DUMPING ACT (ODA)** Regulates the intentional disposing of materials into ocean waters and establishes research on effects of, and alternatives to ocean disposal.

**OFFAL** The waste or **by-product** of a process, e.g. trimmings of a hide; the by-products of milling used especially for stock feeds; the viscera and trimmings of a butchered animal removed during dressing.

**OFFENDER, ALLEGED** A person who has been **charged** with a specific criminal offense(s) by a law enforcement agency or court, but has not been **convicted**.

**OFFENDER aka CRIMINAL** An adult who has been convicted of a criminal offense. Suspect and alleged offender are not synonyms.

**OFFENDER BASED TRANSACTION STATISTICS (OBTS)** Offender-based transaction statistics are derived from information concerning law enforcement, court and corrections proceedings recorded in such a way that the system identity of the person, who is the subject of the proceedings, is preserved throughout the data collection and analysis. The use of the individual offender or alleged offender as the basic unit tracked by the statistical system provides the mechanism for linking events in the different parts of the criminal justice system. The output of one agency can be linked to the input of another agency, and the flow of alleged offenders and offenders through the system can be observed over long periods of time. The capability permits study of the relationships between decisions and dispositions made at one point and decisions and dispositions made at another point in the criminal justice process. The data elements in OBTS and CCH systems both represent **criminal history record information**. However, CCH system output contain personal identifiers; OBTS system output does not.

**OFFENSE** An act committed or omitted in violation of a law forbidding or commanding it.

**OFFENSE, CUMULATIVE** Is the total number of times the same offense was committed over a certain time span.

**OFFENSE, FEDERAL** Is an offense against a federal statute and one that must be tried in a federal court only.

**OFFSITE** (I.) Any property which is not **onsite** (6-1A NYCRR § 360-1.2)); (II.) Any property which is not onsite, including but not limited to any geographically contiguous areas which are or may be impacted by an **inactive hazardous waste disposal site** (6-1A NYCRR § 375.2(m)).

**OIL** Crude petroleum oil and all other **hydrocarbons**, regardless of gravity, that are produced at the wellhead in liquid form by ordinary production methods and that are not the result of condensation of gas. (6-2 NYCRR § 550.3)

**OIL CHANGING OPERATION, ON-PREMISE** Any operation that drains or collects **used lubricating oil** and replaces it with new or rerefined lubricating oil. (6-1A NYCRR § 360-14.2(e))

**OIL COLLECTOR, USED** Any waste transporter as defined in title 2 of Article 27, Chapter 23 of the ECL, who controls a system which functions to retrieve and collect **used oil** for sale or transfer to oil rerefining facilities, or for other methods of **disposal**, but shall not include **service establishments**. (ECL § 23-2301(8))

**OIL, FUEL** All oil which has been **refined, rerefined**, or otherwise processed for the purpose of being burned to produce heat. (ECL § 23-2301); (6-1A NYCRR § 360-14(a))

**OIL, LUBRICATING** (I.) All **petroleum-based oil** which: (a) is suitable for use as a lubricant; (b) is sold for use as a lubricant; and (c) is not consumed in normal use. (ECL § 23-2301(4)); (II.) All oil which is suitable for use as a lubricant or is sold for use as a lubricant. (6-1 NYCRR §360-14.2(c))

**OIL, NEW** All oil which has been refined from virgin oil and may or may not contain additives, but has never been used, and does not include **used oil** or **rerefined oil**. (ECL § 23-2301(3)); (6-1A NYCRR § 360-14.2(d))

**OIL, REREFINED** (I.) **Used oil** which has been refined to remove the physical and chemical contaminants so that it shall be suitable for lube stock or **fuel oil** acquired through use, which by itself or when blended with **new oil** or additives is substantially equivalent or superior to new oil intended for the same purposes, as specified in the American Petroleum

Institute's engine service classifications (ECL § 23-2301(2)); (II.) Any **waste oil** from which physical and/or chemical contaminants have been removed so that it is substantially equivalent to virgin distillate or virgin residual oil. (6-1A NYCRR § 364.1(11))

**OIL, USED** All petroleum-based lubricating oils which have through use been contaminated by physical and chemical impurities which have not been removed through subsequent rerefining. (ECL § 23-2301(1))

**OIL, USED ENGINE LUBRICATING** Petroleum-based lubricating oil from internal combustion engines that through use has been contaminated by physical or chemical impurities. (6-1A NYCRR § 360-14.2(i)) (6-1A NYCRR § 370.2(180))

**ONSITE** (I.) The same or geographically contiguous property. It may be divided by public or private rights-of-way, provided the entrance and exit between the properties is at a crossroads intersection, and access is gained by crossing, as opposed to going along, the right-of-way. Noncontiguous properties owned by the same **person**, but connected by a right-of-way which that person controls and to which the public does not have access, are also considered onsite property. (6-1A NYCRR § 360-1.2(100)); (6-1A NYCRR § 370.2(116)); (II.) Any area or structure used for the long-term storage or final placement of **hazardous wastes**, including but not limited to **dumps, landfills, lagoons and artificial treatment ponds**. (6-1A NYCRR § 375.2(n))

**OPACITY** The degree to which **emissions** other than **waste** reduce the transmission of light and obscure the view of an object in the background. (6 NYCRR § 200.1)

**OPEN BURNING** The combustion of any material or **solid waste** in the absence of any of the following characteristics: (i) control of combustion air to maintain adequate temperature for efficient combustion; (ii) containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; or (iii) control of **emissions** of the gaseous combustion products. (6-1A NYCRR § 360-1.2(101)); (6-1A NYCRR § 370.2(117))

**OPERABLE UNIT** Remedial activity at a more complex site (e.g. Love Canal) may be broken into several distinct and separate remediate efforts, each with its own **Remedial Investigation/Feasibility Study**, design and construction projects. Each remediation effort is an "operable unit".

**OPERATION** In the case of **solid waste incineration** or processing facility, or composting facility, operation after start-up; and in the case of any other **solid waste management facility**, operation of the facility after initial receipt of solid waste. (6-1A NYCRR § 360-1.2(102))

**OPERATOR** (I.) Any person who leases, operates, controls or supervises a facility (ECL § 40-0105); (II.) The person who is in charge of a **solid waste management facility** and has the authority and knowledge to make and implement decisions regarding operating conditions at the facility (6-1A NYCRR § 360-1.2(104)); (III.) The person who is responsible for the operation of a **hazardous waste management facility** (6-1A NYCRR § 370.2(118)); (IV.) The person responsible for the overall operation of a facility.

**ORIGINAL GENERATION POINT** Means the point at which the regulated medical waste leaves the generator's facility site. Waste may be taken from original generation points to a central collection point prior to off-site transport or on-site treatment. (6-1A NYCRR § 364.9(2)).

**ORGANIC PEROXIDES** Organic peroxides are materials that contain an excess of oxygen. These materials can self-ignite if they come in contact with many common materials. In addition to the normal oxidizer hazards, when heated or subjected to strong shock Organic Peroxides can decompose rapidly with explosive force. If these materials are involved in fires, persons should be evacuated for a distance of 1/2 mile from the scene.

**ORGANIZATION** A legal entity, other than a government, established or organized for any purpose, including, a **corporation**, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union or any other association of persons. (ECL § 71-1932(2))

**OUTLET** The terminus of a **sewer system**, or the point of emergence of any water-borne sewage, industrial waste or other wastes or the effluent therefrom, into the waters of the state. (ECL § 17-0105(11))

**OVERSIZED REGULATED MEDICAL WASTE** Medical waste that is too large to be placed in a plastic bag or standard container. (6-1A NYCRR 364.9(2))

**OWNED** "Owned," when used in relation to vehicles owned by the transporter, shall include a lessee of a motor vehicle having the exclusive use and possession of the vehicle under a lease for a period of greater than 30 days. (6-1A NYCRR § 364.1(9))

**OWNER** (I.) Any person who has legal title to a facility (ECL § 40-0105); (II.) A person who owns a **solid waste management facility** or part of one (6-1A NYCRR § 360-1.2(105)); (III.) The person who owns a facility or part of a facility.

**OWNER, FACILITY** The person who owns a **facility** or part of a facility. (ECL § 72-0401(4))

**OWNERSHIP** The possession of equity in the capital, the stock or the profits of an entity transporting **regulated medical waste**, including, but not limited to, property in or title to a vehicle or vessel or any exclusive lease or bailment of a motor vehicle for a period of greater than thirty days. (ECL § 27-1501(7))

**OWNERSHIP, INDIRECT** An ownership interest in an entity that has an ownership interest in an entity transporting **regulated medical waste**. (ECL § 27-1501(8))

**OXIDIZERS** Oxidizers are substances that readily yield oxygen to greatly stimulate the burning of fuels. If mixed with fuels and ignited, rapid combustion will result. If spilled, they should be kept from coming in contact with flammable or combustible materials. Contact with other materials may produce violent reactions or fires. When involved in fires they are capable of exploding or detonating in mass and all persons should be evacuated for a distance of one mile.

**OXYGEN (PRESSURIZED LIQUID)** Pressurized liquid oxygen in contact with fuel, oils and other combustible materials can cause violent, rapid combustion or explosion. Contact with liquefied gases will produce serious frostbite. Sources of ignition, sparks, impacts, friction or sudden shock should be prevented in areas exposed to liquid oxygen spills or leakages.

**PART 212 (6NYCRR)** Title 6 of New York State Codes, Rules and Regulations on Air General Emission Sources.

**PART 360 (6NYCRR)** Title 6 of New York State Codes, Rules and Regulations on Solid Waste Facilities.

**PART 364 (6NYCRR)** Title 6 of New York State Code, Rules, and Regulations on Solid Waste Transportation.

**PART 371 (6NYCRR)** Title 6 of New York State Codes, Rules, and Regulations on the Identification of Hazardous Wastes.

**PART 373 (6NYCRR)** Title 6 of New York State Codes, Rules, and Regulations on Hazardous Waste Facilities.

**PART 375 (6NYCRR)** Title 6 of New York State Codes, Rules, and Regulations for inactive hazardous waste disposal sites. Applies to remedial programs and eligibility of sites for state funding to pay for investigation for cleanup activities.

**PART 703 (6NYCRR)** Title 6 of New York State Codes, Rules, and Regulations on Groundwater.

**PART A** The first part of the two part application that must be submitted by a **treatment, storage and disposal facility** to receive a permit. It contains general facility information. There is a standard form for Part A.

**PART B** The second part of the permit application that includes detailed and highly technical information concerning the **treatment, storage and disposal facility** in question. There is no standard form for the Part B, instead the facility must submit information based on the regulatory requirements.

**PARTICULATE** (I.) Any air or gas-borne material, except water, which exists as a liquid or solid. The determination of the quantity of particulate present in a stack shall be determined in accordance with **emission** testing methods acceptable to the commissioner of the Department of Environmental Conservation (6 NYCRR § 200.1); (II.) Any matter dispersed in the atmosphere, whether solid or liquid, in which individual particles are larger than a single molecule (6 NYCRR § 257-3.1).

**PARTY** The defendant or the plaintiff in a case or one of the people or sides involved in a contract situation.

**PCBs** PCBs (polychlorinated biphenyls) are chlorinated **hydrocarbons** used by industry in the 40's and 50's in electrical transformers and in plumbing as a lubricant. PCBs are highly carcinogenic.

**PENAL LAW** In general, the embodiment of state or federal statutes that are concerned with defining **criminal offenses** and that also setout the appropriate fines and punishment.

**PENALTY** The punishment annexed by law or judicial decision to the commission of a particular offense, which may be imprisonment, **fine**, or loss of civil privileges. The penalty imposed by the court upon a given person convicted of a crime(s) is called the **sentence**.

**PERMIT** (I.) Any permit, certificate, license or other form of department approval, modification, suspension, revocation, renewal, reissuance, or recertification issued in connection with any regulatory program referred to in subdivision three of ECL section 70-0107 of article 70 as further specified by rule and regulation. (ECL § 70-0105(4)); (II.) An authorization, license or equivalent control document issued by the New York State Department of Environmental Conservation to implement the requirements of Part 373 of this Title. Permit does not include **interim status** (Part 373-1.3), or any permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit (6-1A NYCRR § 370.2(121)); (III.) An authorization, a license, or equivalent control document issued by the federal Environmental Protection Agency or an authorized State (in New York, the Department of Environmental Conservation) to implement the regulatory

requirements of Subtitle C Parts 264 and 265 for treatment, storage and disposal facilities; (IV.) Permits set forth the boundaries of conduct allowed and the type of pollutants that the permittee can be associated with. For example, a SPDES permit will indicate the specific contaminants and amounts which can be discharged; a transporter permit will indicate what wastes can be transported, what places each waste can be taken and what trucks owned by the permittee can be used. Since a permittee must sign any application and indicate the lawful manner in which s/he will manage the waste, any criminal violations makes the application a basis for an offense involving false written statements.

**PERMIT, RCRA DELEGATED** A permit issued by the Department of Environmental Conservation for a program for which a comparable permit may be required under RCRA (1976), 42 USC 6901 et seq. 1984 (see section 370.1[e] of this Part for hazardous waste management facilities [HWMF]). (6-1A NYCRR § 370.2(133))

**PERMIT REQUIREMENTS FOR WASTE TRANSPORTERS** (a) No person shall, except pursuant to and in accordance with a valid permit issued pursuant to this Part: (1) collect or remove any regulated waste from its point of origin, generation or occurrence; (2) transport any regulated waste; (3) deliver any regulated waste to a treatment, storage or disposal facility, or otherwise dispose of or relinquish possession of any regulated waste other than as specified in such permit; (4) landspread or impound any septage within the scope of those activities as specified in section 364.1(b) of this Part; or (5) landspread sewage sludge within the scope of that activity as specified in 364.1(b) of this Part; (b) No person who owns or operates a facility at or premises on which any regulated waste originates, is generated or occurs, shall deliver or otherwise relinquish possession of such waste except to a person who has a valid permit issued pursuant to this Part; (c) The transporter of regulated waste shall not be required to obtain a permit pursuant to this Part if the transporter has contracted with a generator of such waste who has been issued a valid permit pursuant to this Part, provided that: (1) The transporter is designated on the generator's waste transporter permit as a waste transporter contracted to transport the generators regulated waste; and (2) the transporter does not transport any regulated waste other than those specified on the generator's permit while operating under the provisions of such permit; and (3) the transporter does not dispose of, deliver or otherwise relinquish possession of any generator's regulated waste to any place other than that designated in the generator's permit. (6-1A NYCRR § 364.2))

**PERMIT-BY-RULE** A provision of Subtitle C of the Resource Conservation and Recovery Act whereby a facility is deemed to have a Resource Conservation and Recovery Act permit if it is permitted under the Safe Drinking Water Act, the Clean Water Act, or the Marine Protection, Research, and Sanctuaries Act and also meets a few additional Subtitle C requirements as specified at 40 CFR § 270.60.

**PERMITTEE** The person who has received a permit under this Part. (6-1A NYCRR § 360-1.2(107))

**PERSON** (I.) The definition of a "person" under the ECL includes not only individuals and corporations but municipalities, political subdivisions and local governments as well. Therefore, the town owned sewage treatment plant which ignores the Department of Environmental Conservation's notices to comply with its SPDES permit effluent limits can be charged with criminal violations. The Department of Environmental Conservation does have a documented history of civil enforcement actions against municipalities, state and local governmental agencies. While most ECL crimes require the acts of a **high managerial agent** to expose a **corporation** to **criminal liability**, Penal Law section 20.20(2)(b), **hazardous waste** and **hazardous substances** crimes do not. See Penal Law section 20.20(2)(c). In such instances the acts of any **agent** of the corporation acting within the scope of employment are sufficient to bind the corporation. (II.) Any individual, public or private corporation, political subdivision, governmental agency, authority, department or bureau of the State, municipality, industry, copartnership, association, firm, trust, estate or any other legal entity whatsoever (6-1A NYCRR § 325.1, 6-1A NYCRR § 370.2(122)); (III.) Any individual, public or private corporation, political subdivision, government agency, industry, partnership, association, firm, trust, estate or any other legal entity whatsoever (6-1A NYCRR § 361.1(14)); (IV.) An individual, trust, firm, joint stock company, corporation, (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body; and (V.) A human being, or a group of human beings considered a legal unit, which has the lawful capacity to defend rights, incur obligations, prosecute claims, or can be prosecuted or adjudicated. Examples of a legal unit constituting a person are a state, a territory, a government, a country, a partnership, a public or private corporation, or an unincorporated association.

**PERSON RESPONSIBLE or RESPONSIBLE PARTY** Means any or all of the following: (1) the current **owner** and **operator** of the site; (2) the owner and operator of the site at the time or subsequent to the time any **hazardous waste disposal** occurred; (3) any **person** who generated any hazardous waste that was disposed of at the site; (4) any person who transported any hazardous waste to the site; (5) any person who disposed of any hazardous waste at the site; (6) any person who be contract, agreement or otherwise arranged for the transportation of any hazardous waste to the site or the disposal of any hazardous waste at the site; or (7) any other person determined to be responsible according to applicable principles of statutory or common law liability. (6-1A NYCRR § 375.2(p))

**PERSONNEL or FACILITY PERSONNEL** All persons who work at or oversee the operations of a **hazardous waste facility**, and whose actions or failure to act may result in noncompliance with the requirements of Part 373 of this Title. (6-1A NYCRR § 370.2(123))

**PEST** (1) Any insect, rodent, fungus, weed; or (2) any other form of terrestrial or aquatic plant or animal life, or virus, bacteria or other micro-organisms (except viruses, bacteria or other microorganisms on or in living humans or other living animals) which the commissioner of the Department of Environmental Conservation declares to be a pest. (ECL § 33-0101(34))

**PESTICIDE** (I.) Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, or other forms of plant or animal life or viruses, except viruses on or in living man or other animal, which the commissioner of the Department of Environmental Conservation shall declare to be a pest; and any substance or mixture of substances intended as a plant regulator, **defoliant**, or **desiccant**. (6-1A NYCRR § 325.1); (II.) Definitions can be found in ECL § 33-0101; regulatory sections are contained in ECL Sections 33-0103 to 33-1503; prohibition sections are found in 33-0903, 33-0905 and Article 33, Title 13. There are also special seizure procedures under Article 33, Title 15. Criminal sanctions are located in ECL Section 71-2907. Department regulations are set forth in 6 NYCRR Part 326. The equivalent Federal statute is the **Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA")**. See 7 U.S.C.A. § 136-136y.

**PESTICIDE, GENERAL USE** ECL § 33-0101(19) defines this as "a pesticide which does not meet the State criteria for a **restricted use pesticide**." A list of restricted use pesticides can be found in 6 NYCRR Part 326.2.

**PESTICIDES, RESTRICTED USE** A **pesticide**, as defined in Article 33 of the ECL, and determined as provided in section 33-0303: (a) which (1) either (a) persists in the **environment**, or (b) accumulates as either the **pesticide per se**, a **pesticide metabolite**, or a **pesticide degradation product** in plant or animal tissue or product, and is not excreted or eliminated within a reasonable period of time, and which may be transferred to other forms of life; and (2) which by virtue of such persistence or accumulation creates a present or future risk of harmful effects on any organism other than the target organisms; or (b) which the commissioner of the Department of Environmental Conservation finds so hazardous to humans or other forms of life that restrictions on sale, purchase, use or possession are in the public interest. (ECL § 33-0101(42))

**PETROLEUM** Petroleum-based oils of any kind which have been **refined**, **rerefined**, or otherwise processed for the purpose of being burned as a fuel to produce heat or usable energy; or which are suitable for use as a motor fuel or lubricant in the operation or maintenance of an engine. (ECL § 17-1005(5))

**PHASE I** A preliminary investigation of site location and history by the Department of Environmental Conservation. It is also that phase of the **Federal hazardous waste management program** commencing on the effective date of the last of the following initially promulgated: 40 CFR parts 260, 261, 262, 263, 265, 270 and 271 (see section 370.1[e] of this Part). Promulgation of Phase I refers to promulgation of the regulations necessary for phase I to begin. (6-1A NYCRR § 370.2(124))

**PHASE I INVESTIGATION** Involves a search of records from all agencies known to be involved with a **site** and interviews with site owners, employees and local residents. Information gathered is summarized in a Phase I report. Phase I is the first attempt to classify the site and to qualify the site for federal funding for cleanup.

**PHASE II** A preliminary investigation of site conditions, possibly including groundwater, surface water and soils. It is also that phase of the Federal hazardous waste management program commencing on the effective date of the first subpart of 40 CFR part 264, subparts F through R, to be initially promulgated (see section 370.1[e] of this Part). Promulgation of Phase II refers to promulgation of the regulations necessary for Phase II to begin. (6-1A NYCRR § 370.2(125))

**PHASE II INVESTIGATION** Involves field work at the site including sampling groundwater, surface water, soil, and waste left above the ground. Information gathered is summarized in Phase II report and is used to classify the site and to arrive at a final hazard ranking score for eligibility on the National Priorities List.

**PHOTON** A quantum of electromagnetic energy which has both particle and wave activity, no charge or mass but possessing momentum. The energy of light, X-rays, gamma rays, is carried by photons.

**PILE** Any noncontainerized accumulation of solid, nonflowing solid waste, including hazardous waste, that is used for treatment or storage. (6-1A NYCRR 370.2(127))

**PITS, PONDS, and LAGOONS** These are natural topographical depressions, artificial excavation, or dike arrangements above, below, or partially in the ground for treating, or storing waste.

**PLACARDS, DANGEROUS** These may be applied to motor vehicles or rail cars containing two or more classes of hazardous materials, except Class A and Class B Explosives, Poisons "A", Flammable Solids (Water Reactive), and some Radioactive Materials, which require separate placards for each hazard class. Shipping papers will specifically identify which hazardous materials are being carried. The four digit UN or NA number must be displayed on all hazardous materials. UN (United Nations) or NA (North American) numbers are found in the Hazardous Materials Tables, § 172.01 and the Optional Hazardous Materials Tables (CFR, Title 49, Parts 100-199). UN numbers are displayed in this same manner for both Domestic and International shipments. NA numbers are used only in the USA and Canada. When hazardous materials are transported in Tank Cars, Cargo Tanks and Portable Tanks, UN or NA numbers must be displayed on: Placards or Orange Panels.

**PLAINTIFF** A person who initiates a court action.

**PLAN, SOLID WASTE MANAGEMENT** A local solid waste management plan prepared by a planning unit pursuant to section 27-0107 of the ECL. (6-1A NYCRR § 360-15.3(c))

**PLANNING UNIT** A county, two or more counties acting jointly, or a local government agency or authority established pursuant to State law for the purposes of managing solid waste, or two or more cities, towns, or villages, or any combination of them, that the

Department of Environmental Conservation determines to be capable of implementing a regional solid waste management program (vis., an integrated system for those cities, towns or villages). A planning unit may also consist of a county, two or more counties acting jointly, or a local government agency or authority established pursuant to State law for the purposes of managing solid waste in combination with one or more neighboring cities, towns, or villages. In order for a county to be a planning unit for purposes of this Subpart, it must include all cities, towns, and villages within its borders; and a county not including same shall be, for purposes of the Subpart, a planning unit consisting of two or more cities, towns or villages that the Department of Environmental Conservation determines to be capable of implementing a regional solid waste management program. (6-1A NYCRR § 360-15.2(b))

**PLANS, DETAILED** Engineering plans and report which establish a working plan for the operation and development of an area of the total site with an active life less than five years. (6-1A NYCRR § 362.2(f))

**PLANS, PRELIMINARY** Engineering plans and report which establish the general guidelines necessary to properly and efficiently develop the site to the use proposed, taking into account the necessary protection and desirable development of air, water and land resources of the State, as determined by the commissioner of the Department of Environmental Conservation. (6-1A NYCRR § 362.2(e))

**PLEA** A defendant's formal answer in court to the charges brought against him/her in a complaint, information, or indictment. There are two types of pleas: not guilty plea and a guilty plea. The latter includes pleas of **nolo contendere**.

**PLEA BARGAINING** The exchange of prosecutorial and/or judicial concessions, commonly to a lesser charge, the dismissal of other pending charges, a recommendation by the prosecutor for a reduced sentence, or a combination thereof, in return for a plea of guilty from the defendant.

**PLUG AND ABANDON** The plugging, replugging if necessary, and abandonment of a wellbore including the placing of all bridges, plugs, and fluids therein and the restoration and reclamation of the surface in the immediate vicinity to a reasonable condition with the adjacent terrain. (ECL § 23-0101(3))

**POISONS "A"** A categorization for extremely toxic materials which in very small quantities can cause rapid illness or death. These materials, when spilled or vented, must be avoided by all persons, except protected specialists. Evacuate personnel from the immediate area, and if a gas is leaking, evacuate all persons downwind as far as necessary to avoid contact with the material.

**POISONS "B"** Poisons "B" are highly toxic materials which can cause illness or death if persons remain in contact with them or inhale or ingest them in quantities. These materials, when spilled or vented, must be avoided by all persons except protected specialists. Evacuate personnel from the immediate area to avoid contact. If possible, confine spread or flow of material to the immediate area. When the material or its containers are involved in fire, all persons should be evacuated from the smoke cloud area, and downwind a distance well beyond the smoke cloud.

**POLICY** A document that specifies operating policies that must be followed. They are used by program offices to outline the manner in which pieces of the Resource Conservation and Recovery Act program are to be carried out.

**POLLUTANT** (I.) Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, and industrial, municipal, and agricultural waste (ECL § 71-1932) discharged into water; and ballast which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards adopted as provided herein (ECL § 17-0105(17)); (II.) As referred to in ECL § 71-1932, "pollutants" include virtually everything discarded, and are not limited to chemicals. For example, pollutants include "sewage...garbage...biological materials, heat...wreck or discarded equipment, rock, sand and industrial, municipal and agriculture waste." Thus, a person who steals an automobile and attempts to destroy the evidence by discarding it in a river, could be prosecuted for having introduced a "pollutant" into the waters of the State without a permit.

**POLLUTION** (I.) The presence in the environment of conditions and or contaminants in quantities of characteristics which may be injurious to human, plant or animal life or to property or which unreasonably interfere with the comfortable enjoyment of life and property throughout such areas of the State as shall be affected thereby (ECL § 1-0303); (II.) The throwing, discharging, draining, running, flowing, or pumping of any organic or inorganic materials, onto the surface lands or waters or into subsurface waters in such volume or manner as to make these lands and waters unfit for human or animal consumption or usage (see also Contamination). (6-2 NYCRR § 550.3)

**PORTION, EXISTING** That land surface area of an existing waste management unit, included in the original Resource Conservation and Recovery Act part A permit application, on which wastes have been placed prior to the issuance of a permit. (6-1A NYCRR § 370.2(60))

**POST-CLOSURE REGULATIONS APPLICABLE TO TREATMENT, STORAGE AND DISPOSAL FACILITIES [The Resource Conservation and Recovery Act SUBPART G]**  
Post-closure is required for disposal facilities. When a disposal facility is closed, it must be monitored for 30 years to ensure the integrity of any waste containment systems and to detect contamination. Post-closure care consists of at least the following: (i) Groundwater

monitoring and reporting; (ii) Maintenance and monitoring of waste containment systems and (iii) Security. Like the closure requirements, a post-closure plan outlining activities is developed and kept at the facility until post-closure care begins. This plan may be amended at any time, and an amendment is required if there is any change that affects the plan. Post-closure plans are submitted and reviewed in the same manner as closure plans.

**POWER PLANT** Any facility which generates electricity using a steam turbine and generator, which may be fired by coal, oil, natural gas, nuclear energy, or other fuel source. (ECL § 72-0601(5))

**ppm** An abbreviation for parts per million which is a measurement of concentration regarding substances in the atmosphere, on land and in water. **Ppb** (parts per billion) and **ppt** (parts per trillion) are similar measures. The federal Environmental Protection Agency sets acceptable levels of substances in the environment in these measures. A **health hazard** is present when actual measurements exceed safety levels.

**PRE-TRANSPORT REGULATIONS** Pre-transport regulations are designed to ensure safe transportation of a **hazardous waste** from origin to ultimate **disposal**. The Department of Transportation regulations that were adopted by the federal Environmental Protection Agency include: (a) proper packaging to prevent leakage of hazardous waste, during both normal transport conditions and in potentially dangerous situations, e.g., when a drum falls out of a truck; (b) identification of the **characteristics** and dangers associated with the wastes being transported through **labeling**, marking and placards of the packaged waste (see **placards, dangerous**). It is important to note that these pre-transport regulations only apply to **generators** shipping waste **off-site**. In addition to adopting the Department of Transportation's regulations outlined above, the Environmental Protection Agency also developed pre-transport regulations that cover accumulation of waste prior to transport. A generator may accumulate hazardous waste **onsite** for 90 days or less as long as the following requirements are met: (1) Proper storage -- The waste is properly stored in **containers** or **tanks** marked with the words "Hazardous Waste" and the date on which accumulation began; (2) Emergency Plan -- A contingency plan and emergency procedures to use in an emergency must be developed; (3) Personnel Training -- Facility personnel must be trained in the proper handling of hazardous waste. The 90-day period allows a generator to collect enough waste to make transportation cost-effective, that is, instead of paying to haul several small shipments of waste, the generator can accumulate waste until there is enough for one big shipment. If a generator accumulates hazardous waste onsite for more than 90 days s/he is considered an **operator of a storage facility** and must comply with the **Resource Conservation and Recovery Act Subtitle C** requirements for such facilities.

**PRELIMINARY SITE ASSESSMENTS (PSA)** Preliminary Site Assessments are conducted by the Department of Environmental Conservation to determine if **hazardous wastes** are present on a site and if a significant threat to health or **environment** exists due to their

presence. The preliminary site assessment data and evaluations are used to determine what actions may be necessary. Examples of these might be initiating emergency response, executing consent orders mandating responsible party clean-ups, nominating sites for the National Priorities List (NPL), conducting further investigations, and reclassifying or delisting the site from the Registry.

**PREPAREDNESS AND PREVENTION, AND CONTINGENCY PLAN AND EMERGENCY PROCEDURES APPLICABLE TO TREATMENT, STORAGE AND DISPOSAL FACILITIES [The Resource Conservation and Recovery Act SUBPARTS C & D]** These two subparts, originally grouped as one, were developed to prepare for emergencies. The preparedness and prevention requirements are explicit (e.g., installing fire protection equipment, alarms and arranging for coordination with the local authorities in emergency situations) and are intended to minimize the possibility and effects of a release, fire or explosion. Contingency plan requirements are the next logical step. They require an owner or operator to develop an action plan for emergency situations. One of the key requirements of this plan is the designation of an emergency coordinator who is responsible for directing response measures and reducing the adverse impacts of hazardous waste releases.

**PRIVATE/COMMERCIAL/INDUSTRIAL FACILITY (P/C/I)** A private/commercial/institutional facility which primarily discharges sewage. (ECL § 72-0601(4))

**PRO BONO** A case an attorney agrees to handle without pay is referred to as a pro bono case.

**PROBABLE CAUSE** A set of facts and circumstances which would induce a reasonably intelligent and prudent person to believe that an accused person had committed a specific crime. The existence of probable cause is required in most jurisdictions for arrest and the beginning of prosecution. Probable cause requires "reasonable grounds to believe" a specific crime has been committed by a specific person, whereas proof of guilt requires "belief beyond a reasonable doubt."

**PROBATION** The conditional freedom granted by a judicial officer to an alleged offender or adjudicated adult as long as the person meets certain conditions of behavior. Probation for an adjudicated person is court ordered conditional freedom, whereas parole is a conditional freedom granted either by a parole authority or by statute after confinement. Probation is usually a continuation of freedom previously granted by the court during court proceedings. It may be granted after conviction, but also may be granted before adjudication, as when the defendant concedes guilt, prosecution is suspended, and the subject placed on probation. Probation may be granted when either execution or imposition of the sentence is suspended. In the former case, a violation of probation and consequent revocation may cause the sentence to be executed. In the latter, a sentence may be set and executed.

**PROBATION VIOLATION** An act or a failure to act by a probationer which does not conform to the conditions of his/her probation. Whereas a probation violation is an act committed by a probationer, a revocation may result in the execution of a previously suspended sentence. A probation violation need not result in **revocation**. Conditions of probation, as set forth by the court which granted the probation, frequently include such admonishments as not committing another offense, not associating with known offenders, or other specified persons, regularly reporting to a probation officer or other designated person, and/or remaining within a designated geographic area.

**PRODUCT OF RESOURCE RECOVERY, INCINERATION, OR COMPOSTING ASH** Residue, noncombustible residue from a **recyclables** handling and recovery facility, noncombustible residue from a composting facility, and compost. (6-1A NYCRR § 360-8.2(e))

**PROJECT** Any activity that requires one or more department permits. (ECL § 70-0105(5))

**PROJECT ENGINEER** The official representative of the **permittee** who is licensed to practice engineering in the State of New York, who is responsible for observing, documenting, and certifying that activities related to the quality assurance of the construction of the **solid waste management facility** conform to the engineering design contained in the **permit** to construct and the regulations specified in this Part. All certifications must bear his/her seal, his/her signature, and the date of certification. (6-1A NYCRR § 360-1.2(111))

**PROJECT, MINOR** A proposed **project** which by its nature and with respect to its location will not have a significant impact on the **environment** and will not exceed criteria established in rules and **regulations** adopted by the Department of Environmental Conservation pursuant to article eight of Chapter 70 of the ECL. (ECL § 70-0105(3))

**PROPERTY** Things that are possessed by a person, such as real property, which is land and its fixtures, or personal property which are things like goods, inventory, stocks, bonds, etc.

**PROPERTY, REAL** Lands and waters, including **improvements** thereon, **structures**, and hereditament, title to which may be in fee simple absolute or any lesser interest, including but not limited to, easements, rights of way, uses, leases, licenses and every estate, interest or right, legal or equitable (see **Conservation Easement**). (ECL § 45-0105(3))

**PROSECUTOR** An **attorney** employed by a government agency or subunit whose official duty is to initiate and maintain criminal proceedings on behalf of the government against **persons** accused of committing criminal **offenses**. Customary names of government attorneys include " U.S.Attorney," "district attorney," and "state's attorney."

**PROSECUTORIAL AGENCY** A federal, state, or local criminal justice agency of which the principle function is the prosecution of **alleged offenders**. Typical prosecutorial agencies are county district attorney offices, organized crime units in federal and state departments of justice, and prosecutorial subunits of regulatory agencies.

**PUBLIC ACCESS** Access to lands for public use, including stream rights and waterways. (ECL § 52-0101(4(f))

**PUBLIC DEFENDER** An attorney employed by a government agency or subdivision, whose official duty is to represent **defendants** unable to hire private **counsel**. An **assigned counsel** is one who may be paid by the government for defending a client in a particular case but is not regularly employed by the government. The third type of defense attorney is **retained counsel**.

**PUBLIC DEFENDER'S OFFICE** A federal, state, or local criminal justice agency or subunit of which the principal function is to represent **defendants** unable to hire private **counsel**.

**PUBLIC NUISANCE** Any activities felt to cause an unreasonable interference with a right common to the general public (such as disturbing the peace). In a common law nuisance suit, citizens typically must show that they have suffered a substantial and unreasonable interference with their use and enjoyment of property. Nuisance liability is based on conduct, whether it was **intentional, negligent, reckless or abnormally dangerous**.

**PUBLIC TRUST DOCTRINE** Essentially holds that the **natural resources** of the country are held "in trust" for the benefit of the people. Therefore, any injury to such resource by any party may be actionable in court. This theory has been used as the basis to obtain **injunctive relief and damages** in a wide range of environmental lawsuits.

**PUBLIC WATER SUPPLY WELLHEAD AREA** The surface and subsurface area between a public water supply well or wellfield and the 99 percent theoretical maximum extent of the stabilized cone of depression of that well or wellfield considering all flow system boundaries and seasonal fluctuations. (6-1A NYCRR § 360-1.2(114))

**PUBLIC WELFARE CRIME** A category of criminal **offense** that requires no knowledge of the illegality of an act in order for **criminal liability** to be imposed. In other words, the crime is one of strict liability.

**PUBLICLY OWNED TREATMENT WORK (POTW)** Any device or system used in the treatment (including **recycling and reclamation**) of municipal **sewage** or **industrial wastes** of a liquid nature which is owned by a state or municipality as defined by section 502 of the Clean Water Act, 33 USC 1362 (see section 370.1[e] of this Part). This definition includes **sewers, pipes, or other conveyances** only if they convey **wastewater** to a publicly owned treatment works providing treatment. (6-1A NYCRR § 370.2(131), 6-1A NYCRR § 360-1.2)

**PUTRESCIBLE** The tendency of organic matter to decompose with the formation of malodorous byproducts. (6-1A NYCRR § 360-1.2)

**QUALITY ASSURANCE** The application of standards and procedures to ensure that a product or facility meets or exceeds desired performance criteria and documentation to verify the results obtained. "Quality assurance" includes "quality control" and refers to actions taken to assure conformity of the construction with the department-approved quality assurance plan, engineering plans, reports and specifications. (6-1A NYCRR § 360-1.2(116))

**QUALITY CONTROL** Those actions which provide a means to measure and regulate the characteristics of an item or service to contractual and regulatory requirements. "Quality control" includes those actions taken before construction to ensure that the materials chosen and workmanship comply with the department-approved quality control plan, engineering plans, reports and specifications. (6-1A NYCRR § 360-1.2(117))

**RAD (Radiation Absorbed Dose)** The unit used for measuring the amount of radiation absorbed by a material. A dose of radiation equal to the absorption of 100 ergs of energy per gram of material.

**RADIATION, EFFECTS OF** Radiation presents a hazard to living things creating chemical changes within living cells (the basic unit of life). Particularly vulnerable are white blood cells, the body's first line of defense against bacterial infection. Radiation also has been shown to induce leukemia. Radiation alters DNA (genetic material) in reproductive cells causing mutations in the offspring (see **mutagen**).

**RADIATION, NUCLEAR** The energetic nuclear particles (such as neutrons, alpha, beta) or photons emitted from the nucleus of an unstable atom.

**RADIOACTIVE MATERIALS** Radioactive materials emit various degrees of radiation that consist of energy such as gamma rays. These emissions cannot be felt or detected without proper instruments. When these materials are involved in accidents severe enough that they may be spilled or leaked from their **containers**, all persons should evacuate the immediate area for several hundred yards until the area is surveyed by specialists. When the material or its containers are involved in fire, all persons should be evacuated from the smoke cloud areas and downwind a distance beyond the visible smoke cloud. Danger of exposure must be assumed until the area is surveyed by properly equipped specialists. There are three groups of radioactive materials, designated as I, II, and III. III materials are the most hazardous.

**RADIOACTIVES aka RADIONUCLIDES** Those elements that are intrinsically unstable and spontaneously give off energy or charged particles as they decay or disintegrate into other forms emitting radiation in the process, are termed "radioactives" and are collectively known as "radionuclides." These include uranium, thorium, and radium. The energy or small particles that are being emitted by these materials have the potential to damage living

tissue. However, they are used as tracers in the body for medical treatment and diagnosis. Without control, radionuclides can be extremely hazardous. Among their effects, they can cause immediate death, burns or injury, and even in small quantities lead to birth defects, cancer, and other chronic disease.

**RADIONUCLIDES** (see **radioactives**).

**RADON** A radioactive gas which is produced naturally by the decay of radium. Danger occurs when high concentrations of the gas are allowed to build up. There is indication that if radon gas is inhaled over a long period of time, lung cancer will occur.

**RCRA** See **Resource Conservation and Recovery Act**.

**RCRA SECTION 7003** A provision of the Resource Conservation and Recovery Act which is similar to common law nuisance. Section 7003 provides that where there is evidence that the "handling, storage, treatment, transportation or disposal of any hazardous waste may present an imminent and substantial endangerment to health or the environment, the courts, at the federal Environmental Protection Agency's request, may take whatever actions are necessary immediately to halt the alleged cause of endangerment. Many of the statutes applicable to toxic substances or hazardous waste control contain "imminent hazard" provisions.

**RCRA SUBPART E** See **Manifest system, recordkeeping and reporting**.

**RCRA SUBPART F** See **Groundwater monitoring**.

**RCRA SUBPART G** See **Closure, Post-closure**.

**RCRA SUBPART H** See **Financial requirements**.

**RCRA SUBPART I** See **Containers**.

**RCRA SUBPART J** See **Tanks**.

**RCRA SUBPART K** See **Surface impoundments**.

**RCRA SUBPART L** See **Waste piles**.

**RCRA SUBPART M** See **Land treatment**.

**RCRA SUBPART N** See **Landfills**.

**RCRA SUBPART O** See **Incinerators**.

**RCRA SUBPART P** See Thermal treatment.

**RCRA SUBPART Q** See Chemical, physical and biological treatment.

**RCRA SUBPART R** See Underground injection.

**RCRA SUBPARTS C AND D** See Preparedness and prevention, and contingency plan and emergency procedures.

**RCRA SUBTITLE C** Subtitle C of the Resource Conservation and Recovery Act establishes a program to manage hazardous wastes from cradle to grave. The objective of the Subtitle C program is to assure that hazardous waste is handled in a manner that protects human health and the environment. To this end, there are Subtitle C regulations regarding the generation, transportation, and treatment, storage, or disposal of hazardous wastes. The Subtitle C program has resulted in perhaps the most comprehensive regulations the federal Environmental Protection Agency has ever developed. They first identify those solid wastes that are "hazardous" and then establish various administrative requirements for the three categories of hazardous waste handlers: generators, transporters, and owners or operators of treatment, storage, and disposal facilities (TSDs). In addition, the Subtitle C regulations set technical standards for the design and safe operation of TSDs. These standards are designed to minimize the release of hazardous waste into the environment. Furthermore, the regulations for TSDs serve as the basis for developing and issuing the permits that each facility is required to have. Issuing permits is essential to making the Subtitle C regulatory program work, since it is through the permitting process that the Environmental Protection Agency or a State actually applies the technical standards to facilities.

**RCRA SUBTITLE D** A federal program to promote and encourage the environmentally sound disposal of hazardous waste. Subtitle D of the Resource Conservation and Recovery Act establishes a voluntary program through which participating States receive Federal financial and technical support to develop and implement solid waste management plans. These plans are, among other things, intended to promote recycling of solid wastes, and require the closing or upgrading of all environmentally unsound dumps. The Environmental Protection Agency's role in the Subtitle D program has been to establish regulations for States to follow in developing and implementing their plans, in approving those State plans that comply with such regulations, and in providing grant money for implementing the plans. The Environmental Protection Agency has also issued minimum technical standards that all solid waste disposal facilities must meet when disposing of solid wastes.

**RCRA SUBTITLE I** A new program, established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), that regulates petroleum products and hazardous substances(as defined under Superfund) stored in underground tanks. The objective of this Subtitle is to prevent leakage from tanks that could pollute the environment, especially groundwater. This program is similar in many ways to the hazardous waste program (**Subtitle C of the Resource Conservation and Recovery Act**) in that it is designed as a regulatory program that may be delegated to the States.

**REACTIVITY** According to the federal Environmental Protection Agency, a solid waste that exhibits any of the following properties is considered a **hazardous waste** due to its reactivity: (a) normally unstable and reacts violently without detonating; (b) reacts violently with water; (c) forms an explosive mixture with water, or generates toxic gases, vapors, or fumes when mixed with water; (d) contains cyanide or sulfide and generates toxic gases, vapors, or fumes at a pH of between 2 and 12.5; (e) capable of detonation if heated under confinement or subjected to strong initiating source; (f) capable of detonation at standard temperature and pressure; or (g) is listed by the Department of Transportation as Class A or Class B explosive.

**REACTIVITY (INSTABILITY) HAZARDS** Reactive materials are those that can enter into a chemical reaction with other materials. Reactions with common materials, other than water, may release energy violently. Unstable materials are those which in the pure state or as commercially produced will become self-reactive and undergo other violent chemical changes. The degrees of hazard are ranked according to ease, rate and quantity of energy released as follows: Signal 4 - Materials that are capable of detonation or explosive decomposition at normal temperature and pressure. Sensitive to mechanical or local thermal shock at normal temperature and pressure; Signal 3 - Materials that are capable of detonation and explosion but need a strong initiating shock. Materials that become sensitive to mechanical or local thermal shock at elevated pressures and temperatures; Signal 2 - Materials that are normally unstable at normal temperatures and readily undergo violent chemical reaction but will not detonate. May react violently with water or form potential explosive mixtures with water in advanced or massive fire; Signal 1 - Materials that are normally stable but at high temperature may become unstable. May react with water but not violently; Signal 0 - Materials that are normally stable under fire conditions. Will not react with water.

**RECEIVING COUNTRY** A foreign country to which a **hazardous waste** is sent for the purpose of treatment, storage or disposal (except short-term storage incidental to transport). (6-1A NYCRR § 370.2(134))

**RECHARGE** The downward movement of water to the water table through the soil overlying an **aquifer**. (ECL § 55-0107)

**RECHARGE AREA, PRIMARY GROUNDWATER** Those areas of the land surface through which water of great volume and high quality generally moves downward to the deeper portions of the underlying **groundwater reservoir**. In the counties of Nassau and Suffolk, primary groundwater recharge areas shall mean the Hydrogeologic Zones I, II, III, IV and V as defined in the Long Island Comprehensive Waste Treatment Plan of 1978, or any amendments to such boundaries which are accepted by the commissioner of the Department of Environmental Conservation. (ECL § 15-0514(1(a))

**RECKLESSLY** A person acts recklessly with respect to a result or to a circumstance described by a statute defining an offense when s/he is aware of and consciously disregards a substantial and unjustifiable risk that such result will occur or that such circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware thereof solely by reason of voluntary intoxication also acts recklessly with respect thereto (see **Culpability**). (Penal Law 15.05)

**RECLAIM, RECOVER or RECYCLE** Any method, technique or process utilized to separate, process, modify, convert or treat or otherwise prepare **hazardous waste** so that component materials or substances may be **beneficially used** or reused as raw materials or energy sources. (6-1A NYCRR § 370.2(135))

**RECLAIMED** A material is reclaimed if it is processed to recover a useable product, or if it is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents. (6-1A NYCRR § 370.2(c)(3))

**RECLAMATION PLAN** The applicant's written proposal for reclamation of the affected areas including land-use objectives, maps or other documents as required to describe reclamation; and where relevant, grading specifications and manner and type of revegetation. (ECL § 23-2705(15))

**RECONSTRUCTION COST** Reconstruction cost of a project or of any part thereof means the actual and reasonable original cost to licensee of the lands or interests in the lands of such project, or such part, less depreciation, if any, plus the cost of reproducing the ways, means and works thereon, less the depreciation of such ways, means or works, including in such costs a reasonable allowance for organization and development expenses, but excluding therefrom any allowance for the license or any contract, lease or franchise, or value as a going concern, or future profits in pending or existing contracts or prospective profits, revenues, dividends or any other intangible element. (ECL § 15-1301(2))

**RECORD OF DECISION (ROD)** An administrative record of remedial alternative analysis for a site, providing a clear justification of the state's choice for the remedial alternative.

**RECOVER** Any act or process by which recyclables are separated from the solid waste stream. (6-1A NYCRR § 360-1.2(118))

**RECYCLABLE MATERIALS** Hazardous wastes that are recycled will be known as recyclable materials. (6-1A NYCRR § 370.2(c)(1))

**RECYCLABLES** A solid waste that exhibits the potential to be used repeatedly in place of a virgin material. (6-1A NYCRR § 360-1.2(120))

**RECYCLABLES HANDLING AND RECOVERY FACILITY** A solid waste management facility, other than collection and transfer vehicles, at which recyclables are separated from the solid waste stream, or at which previously separated recyclables are collected. (6-1A NYCRR § 360-1.2(121))

**RECYCLE** The use of recyclables in place of virgin materials in manufacturing a product. (6-1A NYCRR § 360-1.2(119))

**RECYCLED** A material is recycled if it is used, reused or reclaimed. (6-1A NYCRR § 370.2(c)(4))

**RECYCLING CENTER** A facility where separated solid waste can be stored, assembled and prepared for sale or other disposition. (ECL § 27-0501(5))

**RED BAG WASTE** (See Waste, Red Bag)

**REFUSE** Anything putrescible or nonputrescible that is discarded or rejected as useless or worthless. (6-1A NYCRR § 360-1.2)

**REFUSE-DERIVED FUEL** Treated solid waste that is used as a fuel. (6-1A NYCRR § 360-1.2(123))

**REFUSE-DERIVED FUEL PROCESSING FACILITY** The combination of structures, machinery, or devices utilized to reduce or alter the volume of mixed solid waste before delivery to a solid waste incinerator. (6-1A NYCRR § 360-1.2(124))

**REGENERATED** A material is regenerated if it is restored to its original physical and chemical properties. (6-1A NYCRR § 370.2(c)(5))

**REGIONAL ADMINISTRATOR** (I.) The regional administrator of the appropriate regional office of the federal Environmental Protection Agency or his/her designee. (6-1A NYCRR § 370.2(137)); (II.) The highest ranking official in each of the ten Environmental Protection Agency regions.

**REGIONAL PERMIT ADMINISTRATOR** An employee of the Department of Environmental Conservation located in each of the nine regional offices of the Department of Environmental Conservation and designated by the commission to act on his/her behalf in carrying out Part 621 of this Title. Regional permit administrators' addresses and the counties under their jurisdiction can be found in Appendix 1 of Title 6-1 of New York State's Environmental Conservation Law. (6-1A NYCRR § 370.2(136))

**REGISTRY OF INACTIVE HAZARDOUS WASTE SITES** According to Title 13, Article 27 of the ECL, the registry of inactive hazardous waste sites must include all known or suspected hazardous waste sites. Potential sites may be identified based upon recommendation from counties, complaints from the public, data obtained from hazardous waste generators and other sources. Potential sites are inspected by the Department of Environmental Conservation's regional staff to determine whether there is sufficient reason to add them to the registry. For each site listed, a two-page summary report is prepared, giving information about the site. Additional information may be available in offices of the Department of Environmental Conservation.

**REGULATED MEDICAL WASTE** Any medical waste that is a solid waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, that is not excluded or exempted under subparagraph (ii) of this paragraph and includes such things as liquid waste human blood, hypodermic needles used in animal or human patient care or treatment, contaminated animal carcasses, wastes from surgery or autopsy that were in contact with infectious agents, and other lab wastes. (6-1A NYCRR § 364.9(2)) (See NYCRR cited for complete detail).

**REGULATED MEDICAL WASTE INCINERATION FACILITY** An incinerator which is operated or utilized for the disposal or treatment of regulated medical waste, as defined in Title 15 of article 27 of the ECL and which may utilize high temperature thermal destruction technologies, including combustion for the recovery of thermal value. (ECL § 19-0306(c))

**REGULATED MEDICAL WASTE TRACKING PROGRAM** This program shall: (a) Provide for tracking of the transportation of the waste from the generator to the disposal facility, except that waste that is incinerated need not be tracked after incineration; (b) Include a system for providing the generator of the waste with assurance that the waste is received by the disposal facility; and (c) Use a uniform form for tracking provided that, where appropriate and consistent with the Medical Waste Tracking Act, different forms may be required for generators of differing quantities of medical waste. Such regulations shall not be subject to the requirements of subdivision 2 of section 3-0301 or subdivision 2 of section 5-0107 of Chapter 27 of the ECL. (ECL § 27-1504)

**REGULATED WASTE EXEMPTIONS** See Exemptions, regulated waste.

**REGULATIONS** Regulations issued by government agencies, such as the Environmental Protection Agency (EPA) or New York State Department of Environmental Conservation (see New York Codes, Rules and Regulations, Title 6) to help interpret and carry out statutes. Regulations and the agencies that administer them are necessary because it is usually impossible for legislative bodies to decide each of the many specific, practical issues that arise under a statute.

**RELEASE** (I.) Any "pumping, pouring, emitting, emptying or leaching, directly or indirectly, of a substance so that the substance or any related constituent thereof, or any degradation product of such a substance or of a related constituent thereof, may enter the environment, or the disposal of any substance." See ECL § 71-2702(13). The use of the phrase "may enter the environment" obviates the need for the material to actually escape the container in which it was placed. The last section of the definition "or the disposal of any substance," expands the definition of release (see disposal); (II.) Any unauthorized pumping, pouring, emitting, emptying, overfilling, spilling, leaking, leaching, or disposing, directly or indirectly, of a **hazardous substance** so that the substance or any related constituent thereof, or any degradation product of such a substance or of a related constituent thereof, may enter the environment. (6-2 NYCRR § 595.1, ECL § 40-0105)

**RELIEF** The remedy or damages or decision given by the court, at the request of one of the parties to the action.

**REM (ROENTGEN EQUIVALENT MAN)** a unit for measuring the equivalent dose of radiation incurred by exposed persons by factoring in the quality factor of the radiation. REM equals the absorbed dose (RAD) times the quality factor for the type of radiation (i.e., 20 is the quality factor for alpha particles and 1 is the quality factor for beta and gamma radiation).

**REMEDIAL INVESTIGATION** A process undertaken to determine the nature and extent of contamination by collecting data and characterizing the site. It includes the sampling and monitoring, as necessary, and includes the gathering of sufficient information to determine the necessity for and proposed extent of the inactive hazardous waste disposal site remedial program. (6-1A NYCRR § 375.2(q))

**REMEDIAL INVESTIGATION/FEASIBILITY STUDY (RI/FS)** A detailed investigation of a hazardous waste site to determine the nature and extent of the problem and evaluate alternatives. Defines the extent of contamination and collects data necessary to evaluate alternatives for remediating the site. The result is the selection of the best remedial action which will protect the environment and human health from contaminants at the site.

**REMEDIAL PROGRAM, INACTIVE HAZARDOUS WASTE DISPOSAL SITES** Activities undertaken to eliminate, remove, abate, control or monitor health and/or environmental hazards or potential hazards in connection with inactive hazardous waste disposal sites or to treat or dispose of wastes and waste contaminated materials from such sites including, but not limited to, grading, contouring, trenching, grouting, capping, excavation, transporting, incineration, chemical treatment, biological treatment or construction of leachate collection and treatment facilities. (ECL § 27-1303(3))

**REMEDIATION** The corrective actions taken in the event of a release or threatened release of a contaminant into the environment. (6-1A NYCRR § 360-1.2)

**REMEDIATION REVIEW** A newsletter, published by the NYS Hazardous Waste Site Remediation Program, which reports progress in the Department of Environmental Conservation's remedial program, actions supporting the remedial program by the Department of Law (DOL) and Department of Health (DOH) and statewide efforts to identify and remediate inactive hazardous waste sites. Research, technology, new projects, policy and legislation are featured.

**REPORTABLE QUANTITY or RQ** The amount of a hazardous substance that must be reported to the Department of Environmental Conservation in the event of a release, spill or overfill. The reportable quantity for mixtures is the amount of the hazardous substance components of a mixture. (6-2 NYCRR § 595.1)

**REPORTING OF SPILLS OF LIQUIDS STORED IN BULK** Section 17-1743 of the ECL regulates the release, discharge or spill of any liquid, including petroleum, which would be likely to pollute the lands or waters of the State, including groundwater. A spill, release, or discharge under certain circumstances triggers enforcement under this section.

**REPRESENTATIVE SAMPLE** A sample of a universe or whole (e.g., waste pile, lagoon, groundwater) which can be expected to exhibit the average properties of the universe or whole. (6-1A NYCRR § 370.138))

**REPROCESSING** Any process, method or technique, short of rerefining, that removes physical or chemical contaminants from waste oil so that such oil is suitable for productive use. (6-1A NYCRR § 360-14.2(f))

**REREFINER** Any person who rerefines used oil to remove its physical and chemical contaminants. (ECL § 23-2301(9))

**REREFINING** Any process, method or technique that removes the physical and chemical contaminants from waste oil so that such oil is suitable for use as lube stock or fuel oil and, when used by itself or when mixed with new oil or additives, is substantially equivalent or superior to new oil intended for the same purpose. Lube stock shall meet the standards as specified in the American Petroleum Institute's engine service classification. (6-1A NYCRR § 360-14.2(g))

**RESERVOIR** Any underground reservoir, natural or artificial cavern or geologic dome, sand or stratigraphic trap, whether or not previously occupied by or containing oil or gas. (ECL § 23-0101(17))

**RESIDUALS** Sludge, sewage sludge, septage, air pollution control facility waste, or any other such waste having similar characteristics or effects; and solid waste remaining after the processing of solid waste by composting methods that was not made into compost suitable for use. (6-1A NYCRR § 360-1.2)

**RESIDUE** All solid waste remaining after treatment and, includes but is not limited to ash residue and other solid waste which is not recovered or combusted. (6-1A NYCRR § 360-1.2)

**RESOURCE CONSERVATION** Reduction of the amounts of solid waste that are generated, reduction of overall resource consumption, and utilization of recovered resources.

**RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)** The Resource Conservation and Recovery Act (aka the Act) is really an amendment to the first piece of federal solid waste legislation. In 1965, the Solid Waste Disposal Act was passed with the primary purpose of improving solid waste disposal methods. It was amended in 1970 by the Resource Recovery Act, and again in 1976 by the Resource Conservation and Recovery Act (RCRA) (42 USC 6901 et seq. 1984; for New York see 6-1A NYCRR § 370.1(e)). The changes embodied in RCRA remodeled the nations solid waste management system and greatly expanded provisions pertaining to the management of hazardous waste. RCRA was amended again in 1980 and in 1984. The 1984 Amendments, called the Hazardous and Solid Waste Amendments (HSWA), significantly expand both the scope and detailed requirements of RCRA (see Hazardous and Solid Waste Amendments). The structure of RCRA is straightforward. It is currently divided into nine subtitles, A through I. Subtitles A, B, E, F, G, and H outline, respectively, general provisions, authorities of the Administrator, duties of the Secretary of Commerce, Federal responsibilities, miscellaneous provisions, and research, development, demonstration, and information. Subtitles C, D, and I lay out the framework for the three programs that make up RCRA: the hazardous waste management program, the solid waste program, and the underground storage tank program. The goals set by RCRA are: (1) To protect human health and the environment; (2) To reduce waste and conserve energy and natural resources; and (3) To reduce or eliminate the generation of hazardous waste as expeditiously as possible. To achieve these goals, three distinct yet interrelated programs were developed. The first program outlined under

Subtitle D of RCRA, encourages states to develop comprehensive plans for the management of solid wastes, primarily nonhazardous, eg. **household waste**. The second program, outlined under Subtitle C, establishes a system for controlling hazardous waste from the time it is generated until its ultimate disposal, which involves regulations for controlling the handling, **transportation, storage** and disposal of hazardous wastes "cradle to grave." A **manifest** system is mandated to keep track of these wastes. The third program, outlined in Subtitle I regulates certain underground storage **tanks**. It establishes performance standards for new tanks and requires leak detection, prevention and correction at underground tank sites. It is important to note that although RCRA creates a framework for the proper management of hazardous and non-hazardous solid waste, it does not address the problems of hazardous waste encountered at **inactive or abandoned sites** or those resulting from spills that require emergency response. They are taken care of by a different act, the **Comprehensive Environmental Response, Compensation, and Liability Act**, better known as **Superfund**.

**RESOURCE RECOVERY** (I.) The separation, extraction and recovery of usable materials, energy or heat from **solid waste** through **source separation, recycling** centers or other programs, projects or facilities (ECL § 27-0701(4)); (II.) Any method, technique or process utilized to separate, process, modify, convert, treat or otherwise prepare **hazardous waste** so that the component materials or substances thereof may be **beneficially used** or reused as raw materials, exclusive of useable energy (ECL § 29-0901(13)); (III.) The process of obtaining materials or energy values from collected solid waste for use or reuse. (6-2 NYCRR § 628.1)

**RESOURCE RECOVERY EQUIPMENT** Structures, machinery or devices, singly or in combination, designed, constructed and required to separate, process, modify, convert, treat, or prepare collected **solid waste** so that component materials or substances or recoverable resources may be used as a raw material or for their productive purposes. (ECL § 51-0903(4))

**RESOURCE RECOVERY FACILITY** (I.) A combination of structures, machinery, or devices, utilized to separate, process, modify, convert, treat or prepare collected **solid or hazardous waste** so that component materials or substances or recoverable material may be used as a raw material or energy source (6-1A NYCRR § 370.2(139)); (II.) Any facility at which specified types of **refuse** is combusted for the purpose of recovering heat for use in producing steam and/or electricity. Energy conversion facilities must utilize solid waste to provide more than 50 percent of the heat input to qualify as a resource recovery facility (6 NYCRR § 231.2).

**RESOURCE RECOVERY SYSTEM** A system that provides environmentally sound management of collected **solid waste** through **facilities** planned, designed, assembled, and constructed to maximize the potential for **resource recovery**. (6-1A NYCRR § 360-8.2(f))

**RESPONDENT** When an appeal is brought, the person bringing the suit is the appellant and the person who is being brought into the appeal, the person who won the judgement at the lower level, is the respondent.

**RESPONSIBLE PARTIES** Individuals, companies (e.g. site owners, operators, transporters, or generators of hazardous waste) responsible for or contributing to contamination problems at a hazardous waste site.

**RESTITUTION** The money paid to the winning party in a suit, that is meant to compensate for the losses or damage suffered.

**RESTRICTED CHEMICAL MATERIAL** (a) Any halogenated hydrocarbon chemical (aliphatic or aromatic) including but not limited to trichloroethane, tetrachloroethylene, methylene chloride, halogenated benzene, carbon tetrachloride; or (b) any aromatic hydrocarbon chemical including but not limited to benzene, toluene, naphthalene; or (c) any halogenated phenol derivative in which a hydroxide group and two or more halogen atoms are substituted onto the aromatic carbons of a benzene ring including but not limited to trichlorophenol, pentachlorophenol; or (d) acrolein, acrylonitrile, or benzidine. (ECL § 39-0103(4))

**RESTRICTED GEOGRAPHICAL AREAS** Areas designated as Nassau and Suffolk counties in the ECL article concerned with the use of sewage system cleaners and additives in restricted geographical areas. (ECL § 39-0103)

**RESTRICTED USE PESTICIDES** See Pesticides, restricted use.

**RETROACTIVE** As regards law, one considered effective as of a previous date in time.

**RIGHTS OF DEFENDANT** Those powers and privileges which are constitutionally guaranteed to every defendant. At the time of arraignment a defendant is typically informed of at least the following: the right to remain silent; the right of an attorney at all stages of the proceedings and the right to a court-appointed attorney if the defendant does not have the financial means to retain his own; the right to release on reasonable bail; the right to a speedy public trial (before a jury or a judge); the right to the process of the court to subpoena and produce witnesses in the defendant's own behalf and to see, hear, and question the witness appearing before the defendant; and the right not to incriminate him/herself. Some, though not necessarily all of these, are usually read to a defendant at the time of arrest.

**RIVER** A flowing body of water or a section, portion or tributary thereof, including rivers, streams, creeks, runs, kills, rills, branches, or lakes. "River Area" means the term river and the land area in its immediate environs as established by the commissioner of the Department of Environmental Conservation, but not exceeding a width of one-half mile from each bank thereof. (ECL § 15-2703(9))

**RIVER AND HARBORS ACT SECTION 10 (1899)** In this act Congress forbade obstructing the navigable waters of the United States. This pivotal statute, enacted to protect the navigability of rivers and other waterways, has in recent decades proven an effective weapon in protecting water quality (holding **discharge** of industrial effluent containing suspended solids an obstruction). (33 U.S.C.A. 403)

**ROUTINE PARAMETERS** The standard chemical species or other samples listed in the Water Quality Analysis Table in section 360-2.11(c)(6) of this Part. (6-1A NYCRR § 360-1.2(131))

**RUBBISH** Solid or liquid **waste** materials, including but not limited to paper and paper products; rags; trees or leaves, needles and branches therefrom; vines; lawn and garden debris; furniture; cans; crockery; plastics; cartons; chemicals; paint; greases; sludges; oils and other **petroleum** products; wood; sawdust; demolition materials; tires and automobiles and other vehicle parts for junk salvage, or **disposal**. Rubbish shall not include garbage, incinerator residue, street sweepings, dead animals or offal. (6 NYCRR § 200.1)

**RULEMAKING PETITIONS** Some Federal Environmental laws such as the Toxic Substance Control Act and RCRA authorize rulemaking petitions. Provisions in these laws allow private citizens formally to require an agency to issue, revoke or amend a rule on a particular subject. After receiving the petition, the agency either must initiate the requested action or else publicly explain its failure to do so. (Sometimes, an agency is allowed to set aside funds specifically for citizens to sue to prove their case, and to encourage public participation in other agency decisions.)

**RUN-ON** Any rainwater, leachate, or other liquid that drains over land onto any part of a **facility**. (6-1A NYCRR § 370.2(141))

**RUNOFF** (I.) Any rainwater, leachate, or other liquid that drains over land from any part of a **solid waste management facility** (6-1A NYCRR 360-1.2); (II.) Any rainwater, leachate, or other liquid that drains over land from any part of a **facility** (6-1A NYCRR § 370.2(140)).

**SAFE DRINKING WATER ACT (SDWA)** The Safe Drinking Water Act is administered by the federal Environmental Protection Agency and it outlines primary drinking water standards, regulates underground injection practices, and establishes a **groundwater** control program. This Act is intended to control the levels of **contaminants** and chemicals in public water systems and underground drinking water supplies.

**SALVAGE AREA** A controlled segregated area at a **solid waste management facility** where the **facility owner or operator** authorizes salvaging. (6-1A NYCRR § 360-1.2(133))

**SALVAGING** The incidental removal of **solid waste** for reuse under the control of the **facility owner or operator**. (6-1A NYCRR § 360-1.2)

**SANITARY LANDFILL** A land disposal site employing an engineered method of disposing of solid wastes on land in a manner that minimizes environmental hazards and meets the design and operation requirements of Part 360 of this Title. (6-1A NYCRR § 370.2(142))

**SAPROLITE** Disintegrated and decomposed rock that lies in its original place. (6-1A NYCRR § 360-1.2(135))

**SATURATED ZONE and ZONE OF SATURATION** That part of the earth's crust in which the interconnected voids are filled with water at a pressure equal to or greater than atmospheric pressure. The interface between the saturated zone and the unsaturated zone is the **groundwater** table. (6-1A NYCRR § 360-1.2(136))

**SCHEDULE OF COMPLIANCE** (I.) A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard (ECL § 17-0105(18)); (II.) A schedule of remedial measures included in a **permit**, including an enforceable sequence of interim requirements (for example, actions, operations or milestone events) leading to compliance with the regulation of Parts 370, 371, 372 and 373 of this Title. (6-1A NYCRR § 370.2(144))

**SCRAP METAL** Bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts and soldering (e.g., radiators, scrap automobiles, railroad boxcars), which when worn or superfluous can be recycled. (6-1A NYCRR § 370.2(c)(6))

**SECONDARY MATERIALS** (I.) Material recovered from or otherwise destined for the waste stream, including but not limited to, post-consumer material, industrial scrap material and overstock or obsolete inventories from distributors, wholesalers and other companies as defined in codes, rules, and regulations promulgated by the commissioner of Economic Development in consultation with the commissioner of the Department of Environmental Conservation but such term does not include those materials and **by-products** generated from, and commonly reused within an original manufacturing process (ECL § 27-0401(1)); (II.) Those commodities that have been **reclaimed** for reuse and are used in place of raw material in manufacturing a product (ECL § 27-0501(10)).

**SECURITY MEASURES (TREATMENT, STORAGE AND DISPOSAL FACILITIES)** Security requirements developed under RCRA to prevent the unknowing entry of people and minimize the potential for the unauthorized entry of people or livestock onto the **active portions of facilities**. To meet these security objectives an artificial or natural barrier surrounding the active portion of the facility with controlled entry systems or 24-hour surveillance must be installed and warning signs posted. **Owners or operators** must also take

precautions to avoid fires, explosions, generation of toxic gases and any other events that would threaten human health, safety, and the environment. There are two exemptions from these requirements: (1) if unauthorized or unknowing entry will not result in injury, and (2) if the disturbance of waste or equipment will not result in environmental damage.

**SEEPAGE IMPOUNDMENT PROCESS** A process that deliberately allows contaminated waters to seep into the ground to "aid in the dewatering of the metal hydroxide sludges" from metal plating and finishing wastes.

**SELENIUM** Selenium is an element used in the manufacture of electronics equipment, steel, pigments, glass, and ceramics. Acute exposure to selenium can cause eye, lung, and heart damage.

**SENSITIVE RECEPTOR AREAS** Regions of the state, encompassing geographically significant land areas not wholly contained within any county, that the Department of Environmental Conservation determines to be susceptible to the impacts of acid deposition based upon: (a) geological information identifying areas incapable of adequately neutralizing acid deposition; (b) the presence of plant or animal species that are particularly sensitive to acid deposition; (c) existing acid deposition reports and data prepared by agencies of the state or of the federal government; or (d) such other information that the Department of Environmental Conservation determines to be indicative of acid sensitivity. (ECL § 19-0901(15))

**SENTENCE** The penalty imposed by a court upon a convicted person, or the court decision to suspend imposition or execution of the penalty.

**SEPTAGE** The contents of a septic tank, cesspool, or other individual sewage treatment facility which receives domestic sewage wastes. (6-1A NYCRR § 360-1.2; 6-1A NYCRR § 364.1(4))

**SERVICE AREA** The geographical area serviced by a solid waste management facility from which solid waste is generated and collected for delivery to that facility. (6-1A NYCRR § 360-1.2(139))

**SERVICE ESTABLISHMENT** Every automobile service station including gas only outlets and any other retail outlet and boat marina selling at least five hundred gallons of lubricating oil annually and having an on-premise oil changing operation. (ECL § 23-2301(7); 6-1A NYCRR § 360-14.2(h))

**SETTLEMENT ACCOUNTS** Part of the State Hazardous Waste Remedial Fund. It includes funds received from responsible parties through enforcement activities for remedial projects and for natural resource damages.

**SEWAGE** The water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration and surface water as may be present. (ECL § 17-0105(4))

**SEWAGE, DOMESTIC** Water-carried human and animal wastes from residences, buildings, industrial establishments, or other places, together with such groundwater infiltration and surface waste as may be present. (6-1A NYCRR § 360-1.2(46))

**SEWAGE, RAW** Any untreated sanitary waste. (6-1A NYCRR § 364.1(6))

**SEWAGE SLUDGE** The accumulated semisolids or solids resulting from treatment of wastewaters from publicly or privately owned or operated sewage treatment plants. (6-1A NYCRR § 360-1.2 (140))

**SEWER SYSTEM** Pipelines or conduits, pumping stations, force mains, and all other constructions, devices and appliances appurtenant thereto, used for conducting sewage (the water carried human, animal, or other treatable wastes from residences, buildings, industrial and commercial establishments or other places) to a point of connection to the sewage treatment works. (6-2 NYCRR § 651.74; ECL § 17-0105(8))

**SHALLOW LAND BURIAL (as regards low-level radioactive waste)** The placement of packaged low-level radioactive waste into trenches dug within 200 feet of the earth's surface and backfilled with soil.

**SITE** (I.) The geographically contiguous property of a solid waste management facility and includes at a minimum the land area of that facility and its access road, appurtenances, and land buffer areas (6-1A NYCRR § 360-1.2(141)); (II.) The land or water areas where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity (6-1A NYCRR § 370.2(146)); (III.) That parcel of property designated by the applicant in the application submitted pursuant to this Part (6-1A NYCRR § 361.1(15)); (IV.) The land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

**SITE, INDIVIDUAL GENERATION** The contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more sources of hazardous waste, but is considered a single or individual generation site if the site or property is contiguous. (6-1A NYCRR § 370.2(84))

**SITE OF GENERATION** Those "premises where hazardous wastes are produced, used, or stored pursuant to authorization or registration under the federal Solid Waste Disposal Act or under article twenty-seven of this chapter and all contiguous property owned or leased by the owner or lessor of said premises, including contiguous property

which may be otherwise divided by a public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection, and access is by crossing as opposed to going along the right-of-way, and non-contiguous property owned or leased by the owner or lessor of said premises, but connected by a right-of-way which s/he controls and to which the public does not have access." (ECL § 71-1702(4))

**SITE or SINGLE CONTIGUOUS SITE** An unbroken tract or abutting tracts of land upon which an owner has located one or more **hazardous substance storage tanks**. (6-2 NYCRR § 595.1)

**SITE PRIORITY RANKING SYSTEM** A model developed by New York State for assessing the relative priority of **hazardous waste sites** for remedial action.

**SLUDGE** Any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial **wastewater treatment plant**, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant. (6-1A NYCRR § 370.2(147; 6-1A NYCRR § 360-1.2; 364.1(5))

**SLUDGE, STABILIZED** Sludge that has been digested or otherwise treated to reduce **putrescibility** and odor, reduce pathogenic organisms and, except for lime stabilization, reduce the volatile solids content. (6-1A NYCRR § 360-1.2(149))

**SMALL QUANTITY GENERATOR** (I.) A **generator** who generates less than 1,000 kilograms of nonacute hazardous waste in a month and stores less than 1,000 kilograms of this waste at any one time; or a generator who generates less than one kilogram of acute **hazardous waste** in a month and stores less than one kilogram of this waste at one time (6-1A NYCRR § 370.2(148)); (II.) A generator who produces less than 1000 kg of **hazardous waste** per month (or accumulates less than 1000 kg at any one time) or one who produces less than 1 kg of acutely hazardous waste per month (or accumulates less than 1 kg of acutely hazardous waste at any one time). The threshold will reduce to 100 kg per month of hazardous waste on March 31, 1986.

**SMALL QUANTITY WASTE TRANSPORTER EXEMPTION** (i) Any generator who is exempt from the requirements of Part 372 of this Title, pursuant to section 372.1(e)(1) of the New York State Codes, Rules and Regulations, and who transports less than a total 220 pounds (100 kilograms) of **hazardous waste** or less than 2.2 pounds (1 kilogram) of acute **hazardous waste** during any consecutive 30-day period is exempt from the requirements of this Part, provided that the wastes are generated and transported exclusively by the generator; (ii) Any person who transports less than 500 pounds of nonhazardous **industrial/commercial waste**, other than **regulated medical waste**, in any single shipment is exempt from the requirements of this Part; (iii) A person is exempt from the permitting requirement of this Part as an **infectious waste transporter** if s/he transports 220 pounds (100 kilograms) or less of infectious waste during any one month. (6-1A NYCRR § 364.1(3))

**SMOKE** An air contaminant consisting of small gas-borne particles emitted by an air contamination source in sufficient number to be observable. (6 NYCRR § 200.1)

**SOIL MOISTURE HOLDING CAPACITY and FIELD CAPACITY** The ratio of the total volume of water that a soil retains after gravity drainage to the total volume occupied by the soil. (6-1A NYCRR § 360-1.2(143))

**SOLID WASTE DISPOSAL ACT** See Resource Conservation and Recovery Act.

**SOLID WASTE DISPOSAL FACILITY** An area or site used for the final placement and disposal of solid waste by means of compaction and burial in a manner satisfactory to the State Commissioner of the Department Environmental Conservation. (6-1A NYCRR § 362.2(c))

**SOLID WASTE INCINERATOR** An incinerator combusting solid waste or solid waste in combination with fossil fuel, with or without energy recovery. (6-1A NYCRR § 360-1.2(144))

**SOLID WASTE INCINERATOR PROCESS TRAIN** The solid waste incineration chute to stack equipment. This equipment would generally include a feed chute or charging hopper, combustion system, boiler, air pollution control devices, and ash residue system. (6-1A NYCRR § 360-1.2(146))

**SOLID WASTE MANAGEMENT** The purposeful and systematic transportation, storage, processing, recovery and disposal of solid waste. (ECL § 27-0701(3))

**SOLID WASTE MANAGEMENT FACILITY** (I.) As referenced in ECL § 27-0501(8)), any facility employed beyond the initial solid waste collection process, including but not limited to recycling centers, transfer stations, baling facilities, rail haul or barge haul facilities, processing systems, including resource recovery facilities or other facilities for reducing solid waste volume, sanitary landfills, plants and facilities for compacting, composting or pyrolysis of solid waste, incinerators and other solid waste disposal, reduction or conversion facilities.; (II.) Any facility employed beyond the initial solid waste collection process and managing solid waste, including but not limited to: storage areas or facilities; transfer stations; rail-haul or barge-haul facilities; landfills; disposal facilities; solid waste incinerators; landspreading facilities; composting facilities; surface impoundments; and waste oil storage, reprocessing, rerefining facilities, recyclables handling and recovery facilities, and waste tire storage facilities (6-1A NYCRR § 360-1.2(145)); (III.) A facility employed beyond the initial solid waste collection process, including but not limited to: storage areas or facilities; transfer stations; rail-haul or barge facilities; processing facilities, including resource recovery facilities, sanitary landfills, secure landburial facilities; incinerators; composting facilities; surface impoundments; and waste oil storage, reprocessing and rerefining facilities (6-1A NYCRR § 370.2(151)).

**SOLID WASTE RECOVERY AND MANAGEMENT PROJECT** Resource recovery equipment, source separation equipment, disposal equipment or any combination thereof required by a solid waste recovery and management system. (ECL § 51-0903(2))

**SOLID WASTE RECOVERY AND MANAGEMENT SYSTEM** A municipal program to provide environmentally sound recovery or disposal of collected solid waste through facilities planned, designed, assembled and constructed to assure environmental protection and to maximize the potential for resource recovery. (ECL § 51-0903(3); 6-2 NYCRR § 628.1)

**SOURCE, NONPOINT** Any source of water pollution or pollutants which is not a discrete conveyance or point source permitted pursuant to title seven or eight of ECL, article seventeen. (ECL § 17-1403(3))

**SOURCE, POINT** (I.) Any discernible, confined, and discrete conveyance from which pollutants are or may be discharged. Sources of discharge include, but are not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel, or other floating craft. This term does not include return flow from irrigated lands (6-1A NYCRR § 360-1.2(109); 6-1A NYCRR § 370.2(128)); (II.) Any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating stock from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture. (ECL § 17-0105(16))

**SOURCE SEPARATION** (I.) According to ECL § 27-0501(9)), "source separation" is the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.; (II.) As referenced in 6-1A NYCRR 360-1.2), "source separation" is the dividing of solid waste into some or all of its component parts at the point of generation.

**SOURCE SEPARATION EQUIPMENT** Shall mean: (a) add-ons or trailers designed to modify collection vehicles to allow sorting and separation of collected wastes held for the purpose of recycling or collection vehicles whose function and design are exclusively for such purpose; (b) containers for the source separation and temporary storage of recyclable wastes by residents or business prior to collection; (c) bins, sheds or other facilities for the temporary storage of materials prior to transport for the purposes of recycling. (ECL § 51-0903(8))

**SPDES** See State Pollutant Discharge Elimination System

**SPECIFIC INTENT CRIMES** Means each element of the crime would be subject to proof of knowledge. (For example, hazardous waste crimes, if subject to specific intent, would require proof that the defendant (1) knew s/he was disposing of a substance, (2) knew it was a hazardous waste as defined in 6 NYCRR Part 371 and (3) knew s/he needed a permit to dispose of it.

**SPENT FUEL** Highly radioactive and thermally hot waste fuel that was once used in a nuclear reactor but which can no longer sustain a nuclear chain reaction.

**SPENT MATERIAL** Any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing. (6-1A NYCRR § 370.2(c)(7))

**SPILL** The accidental leaking, pumping, emitting, emptying or dumping of hazardous wastes or materials which, when spilled, become hazardous wastes, into or on any land or water. (6-1A NYCRR, § 370.2(153))

**SPILL or SPILLAGE** Any escape of a substance from the containers employed in the normal course of storage, transfer, processing or use. (6-2 NYCRR § 595.1)

**STANDARD OF PERFORMANCE** A standard for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the federal government determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including where practicable, a standard permitting no discharge of pollutants. (ECL § 17-0105(21))

**STANDARDS** Such measure of purity or quality for any waters in relation to their reasonable and necessary use as may be established by the Department of Environmental Conservation pursuant to section 17-0301 of the ECL. (ECL § 17-0105(7))

**STANDBY CONTRACT** A contract specifying work that can be performed by the contractor without obtaining a formal contract amendment.

**START-UP** That period of time starting with the initial receipt of solid waste or refuse-derived fuel at the facility (not to exceed 180 days), in which a solid waste incinerator or refuse-derived fuel processing facility is breaking in and adjusting equipment before long-term operation. This period is covered in the permit to construct and provides for equipment adjustment and owner acceptance testing. (6-1A NYCRR § 360-1.2(150))

**STATE AGENCY** Any department, division, bureau, commission, board, public authority, or other agency of the State. Any public benefit corporation, any member of which is appointed by the Governor. (6-2 NYCRR § 505.2)(ECL § 8-0105)

**STATE ENVIRONMENTAL QUALITY REVIEW ACT** (Article 8 of ECL). This Act is modeled closely after the National Environmental Policy Act, or NEPA, 42 U.S.C.A. 4321. The purpose of this act is to declare a state policy which will encourage productive and enjoyable harmony between people and their environment; to promote efforts which will prevent or eliminate damage to the environment and enhance human and community resources; and to enrich the understanding of the ecological systems, natural, human and community resources important to the people of the state. The act's substantive provisions (section 8-0109) require state and municipal agencies to prepare environmental impact statements, consider alternatives and mitigate harm. (ECL § 8-0101)

**STATE FISCAL YEAR (FY)** April 1 through March 31 of the following year.

**STATE POLLUTION DISCHARGE ELIMINATION SYSTEM--PERMIT CONDITIONS**

Under the environmental regulatory system, there are periodic reporting requirements set forth in the regulations or permit conditions. For example, 6 NYCRR Part 373-3.5(e) requires every owner or operator of a hazardous waste facility to file an annual report indicating the total quantities of wastes received and from whom. A typical permit condition under the State Pollution Discharge Elimination System is the requirement that the permittee sample and test its effluent daily and submit a monthly report of its results to the Department of Environmental Conservation. In many cases where environmental crimes are suspected, an analysis of these documents and interviews with employees have resulted in prosecution for offenses involving false written statements.

**STATE POLLUTION DISCHARGE ELIMINATION SYSTEM PROGRAM** Those activities of the Department of Environmental Conservation as specified in titles seven and eight of article seventeen of this chapter related to discharges into the waters of the state and any related enforcement activities. (ECL § 72-0601(6))

**STATE POLLUTION DISCHARGE ELIMINATION SYSTEM (SPDES)** (I.) Creates "a state pollutant discharge elimination system" to insure that the State of New York shall possess adequate authority to issue permits regulating the discharge of pollutants from new or existing outlets or point sources into the waters of the state, upon condition that such discharges will conform to and meet all applicable requirements of the Federal Water Pollution Control Act, as amended (33 U.S.C.A. 1251, et seq.) and rules, regulations, guidelines, criteria, standards and limitations adopted pursuant thereto relating to effluent limitations, water quality related effluent limitations, new source performance standards, toxic and pretreatment effluent limitations, ocean discharge criteria, and monitoring, and to participate in the National Pollutant Discharge Elimination System (NPDES) (ECL § 17-0801); (II.) ECL § 17-0105(13) - The Division of Water of the Department of Environmental Conservation issues these permits. Technically, any point source discharges to the waters of the State including hot water must have a SPDES permit. However, depending on the county, some of these permitting responsibilities have been delegated to local authorities. Thus, if a water prosecution is being contemplated, a prosecutor must check with both State and county officials to ascertain whether the alleged violator had

authorization to discharge. Illegal discharge to a sewer which is serviced by a treatment works does not fall under a non-point discharge nor a violation of SPDES. Since the discharge is via a sewer line, it is clearly a point source. However, the SPDES permit in such cases is held by the treatment works which discharges to the waters of the State. This crime falls within a third category: violation of pre-treatment standards

**STATE PRIORITY RANKING SYSTEM** This system developed by the State Department of Environmental Conservation and the **Department of Health** is used to evaluate sites based upon risk to human health and **natural resources**. This state list helps to determine cleanup priorities in the State Superfund Program. The system has three components: a Health Ranking Model, a Biothreat Model and the federal Environmental Protection Agency's Hazard Ranking System.

**STATE SUPERFUND MANAGEMENT BOARD (SSMB)** Monitors and evaluates implementation of the **Inactive Hazardous Waste Site Remediation Program** by the Department of Environmental Conservation, Department of Health, and Department of Law. The Board recommends improvements to the Governor and Legislature. Membership includes representatives from industry, government and the environmental community.

**STATE SUPERFUND, NEW YORK** Chapter 857 of the laws of 1982 established an assessment on **hazardous waste** to create a fund for cleaning up sites for which no responsible party could be identified or for which the responsible party is unable to fund remedial action. Among the major provisions are: (1) It establishes the hazardous waste remedial fund (state superfund) from fees assessed against wastes generated in or transported into New York State; (2) It identifies uses of the hazardous waste remedial fund; site investigation; site remedial programs; financing the non-federal share of cleanup and remediation activities carried out under **federal superfund**; and emergency response actions for spills or other hazards involving hazardous waste. The **1985 Amendments to State Superfund** include, but are not limited to: (1) The existing Regulatory Fees for hazardous waste facilities and transporters were doubled, and half of the resulting revenue was added to the Remedial Fund (State Superfund), on April 16, 1985; (2) A surcharge of 2.5 cents per barrel was added to the existing license fee collected from major petroleum facilities, on June 1, 1986; (3) The Department of Environmental Conservation is required to update the State **Inactive Hazardous Waste Remedial Plan** by July 1986 and update it annually; (4) The Department of Environmental Conservation is required to prepare a quarterly status report for all sites in the **Registry**; (5) The Department of Environmental Conservation is required, in consultation with the Department of Health, to establish a site evaluation system to select and prioritize sites for remedial action; (6) The financial burden for municipalities is limited to 25% of remedial costs, not obtained from the federal government or other responsible parties, where the municipality is considered a responsible party due solely to ownership; and (7) The Environmental Facilities Corporation is authorized to remediate sites under contract with site owners, and to render technical assistance or other services for owners.

**STATUTE OF LIMITATIONS** A law that sets the length of time after an event has occurred in which a person is allowed to sue. Time limits are set to avoid stale lawsuits in which evidence is unavailable and the memories of witnesses have failed. The judicial clock in some states may start only after the victim has discovered or reasonably discovered his/her injury. Other state courts insist that the statute should begin at the time of the original exposure to the chemical. Statute of Limitations may be a problem with cases of groundwater contamination.

**STIPULATION** An agreement between parties involved in litigation that pertains to some point that is concerned with the suit. Stipulations are made in order to conserve time and expense. Many stipulations consist of relevant facts to which both parties agree.

**STORAGE** (I.) The containment of regulated medical waste in such a manner as not to constitute disposal of such waste. (ECL § 27-1501(3)); (II.) The containment of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste. (ECL § 27-1101(8));(6-1A NYCRR § 370.2(156)); (III.) The holding of solid waste for a temporary period, at the end of which the solid waste is processed, recovered, disposed of or stored elsewhere. (6-1A NYCRR § 364.1(13)); (IV.) The containment of any solid waste such that it does not constitute disposal of that waste. (6-1A NYCRR § 360-1.2(151))

**STORAGE FACILITY or FACILITY** (I.) According to ECL § 40-0105, a "storage facility" is any individual tank or other holding vessel including any associated pipes, lines or fixtures, which is used to store or contain an accumulation of a hazardous substance in quantities established pursuant to section 40-0113 (ECL), provided, however, that a storage facility shall not include: (a) a non-stationary tank, barrel, drum or other holding vessel unless used to store or contain 1,000 kilograms or more of a hazardous substance for a period of ninety days or more; (b) a flow-through process tank or other equipment wherein physical, chemical or biological change takes place as part of the process; (c) any septic tank, storm water or wastewater collection system; (d) any capacitors or transformers containing polychlorinated biphenyls; or (e) any above ground facility on an operating farm used solely to store or contain hazardous substances which will be used for agricultural purposes on such farm.; (II.) As referenced in 6-2 NYCRR § 595.1, a "storage facility" is a facility with one or more storage tanks including dikes, curbs and ancillary equipment at a single contiguous site.

**STORAGE FACILITY, MODIFIED** A storage facility at which there has occurred substantial reconditioning or repair of an existing tank or storage vessel or associated pipes, lines or fixtures or replacement of a substantial portion of the storage facility. (ECL § 40-0105(5))

**STORAGE INCIDENTAL TO TRANSPORT** Any on-vehicle storage which occurs enroute from the point of initial waste pickup to the point of final delivery for the purposes such as, but not limited to, overnight on-the-road stops, stops for meals, fuel and driver comfort,

stops at the transporter's facility for weekends immediately prior to shipment, or on-vehicle storage not to exceed five days to the transporter's facility for the express purpose of consolidating loads (where such loads are not removed from their original packages or containers) for delivery to an authorized treatment, storage or disposal facility. (6-1A NYCRR § 364.1(13))

**STORAGE TANK or TANK** Any aboveground or underground container or other holding vessel used for storing a hazardous substance, or mixture thereof, which is constructed of nonearthen materials (e.g. concrete, steel, plastic) that provides structural support. The term tank includes any associated pipes, lines or ancillary equipment. A storage tank includes any aboveground nonstationary storage container, barrel, drum, tank car or other holding vessel which is designed and used to store or contain 1,000 kilograms or more of a hazardous substance, or a mixture thereof, for a period of 90 consecutive days or more. (6-2 NYCRR § 595.1)

**STRATIGRAPHIC SECTION, CRITICAL** All stratigraphic units, both unconsolidated deposits and bedrock, into which contaminants that escape from the solid waste management facility might reasonably be expected to enter and cause contamination. (6-1A NYCRR § 360-1.2(40)). Stratigraphy is (1) arrangement of rocks into layer or strata; (2) The branch of geology dealing with the study of the nature, distribution and relations of the stratified rocks of the earth's crust.

**STRUCTURE** Any object constructed, installed or parked on land to facilitate land use, such as buildings, mobile homes, sheds, signs, tanks, outdoor lighting and any fixtures, additions and alterations thereto and trailers, travel trailers, campers, or tents constructed, installed, or parked on land for other than a temporary period or for a purpose other than transient occupancy and any fixtures, additions or alterations thereto. (ECL § 15-2703(12))

**SUBJUDICIAL OFFICER** A judicial officer who is invested with certain judicial powers and functions, but whose decisions in criminal cases are subject to de novo review by a judge.

**SUBPOENA** A written order issued by a judicial officer requiring a specified person to appear in a designated court at a specified time in order to serve as a witness in a case under the jurisdiction of that court, or to bring material to that court. See citation (appear); summons; and warrant, bench for other orders requiring court appearance. A subpoena to serve as a witness is called a subpoena testificatum. A subpoena to bring material is called a subpoena duces tecum.

**SUBSTANCES ACUTELY HAZARDOUS TO THE PUBLIC HEALTH, SAFETY, OR THE ENVIRONMENT** Any substance which: (a) is listed as an acute hazardous waste in regulations promulgated pursuant to ECL section 27-0903 of the chapter and all

amendments thereto, regardless of whether at the time of release the substance was actually a waste; or (b) appears on the list in regulations promulgated pursuant to paragraph(b) of subdivision one of ECL section 37-0103 of this chapter and all amendments thereto. (ECL § 71-2702(11))

**SUBSTANCES HAZARDOUS TO THE ENVIRONMENT** Substances which, because of their toxicity, magnification, or concentration within biological chains, present a demonstrated threat to biologic life cycles when discharged into the environment. (ECL § 37-0101)

**SUBSTANTIAL CHANGE OF USE** In a transfer of title or lease; the use of a site for any agricultural or residential purposes; the erection of a building or other structure on a site; the paving of a site for use as a private or public roadway or parking lot; the creation of any private or public recreational, educational or cultural facility on a site; the removal of a fence or other barricade which restricts public access to a site; the conversion of a site from private use to public or commercial use; the conversion of a site from public or commercial use to private use; the installation of any pipeline, well, pit, pond, lagoon, impoundment or landfill on a site; any significant effect on a site which results from activities conducted offsite by the owner of the site, or a third party acting with the owner's authorization; or any other substantial physical alteration or modification of the site. (6-1A NYCRR § 375.2(r))

**SUBSTANTIAL INTEREST** Ownership or indirect ownership of ten per centum or more. (ECL § 27-1501(9))

**SUBSTANTIALLY MODIFIED FACILITY** The reconditioning or replacement of an existing tank or installation of a new tank at a facility. (ECL § 17-1005(2))

**SUMMONS** A written order issued by a judicial officer requiring a person accused of a criminal offense to appear in a designated court at a specified time to answer the charge(s). A document issued by a law enforcement officer requiring a court appearance is classified as a citation. See subpoena and warrant, bench for other orders requiring court appearance.

**SUMP** Any pit or reservoir that meets the definition of tank and those troughs and trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities. (6-1A NYCRR § 1370.2(157))

**SUPERFUND** See Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

**SUPERFUND, STATE** See State Superfund, New York.

**SURFACE IMPOUNDMENT** A facility or part of a facility which is a natural topographical depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of (solid waste in semisolid or liquid form -- ECL § 72-0401), liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons. (6-1A NYCRR § 364.1(14)); (6-1A NYCRR § 360-1.2)

**SURFACE IMPOUNDMENT REGULATIONS APPLICABLE TO TREATMENT, STORAGE AND DISPOSAL FACILITIES [RCRA SUBPART K]** Great concern has arisen regarding the use of surface impoundments for managing hazardous wastes because wastes deposited in them tend to escape. The pressure of the liquids forces the contents to flow downwards into surrounding areas, resulting in contamination, especially of groundwater waters. The initial requirements established for surface impoundments in interim status were not adequate to prevent contamination. They concentrated on general operating requirements to prevent overtopping (2 feet of freeboard was required) and containment of liquids (dikes were required to have protective covers, such as grass or rock to preserve their structural integrity). Liners to prevent leakage and groundwater monitoring were not required because it was deemed impractical and infeasible by the Environmental Protection Agency for all surface impoundments to be retrofitted for the duration of the interim period before permitting. Congress, however, established minimum technological requirements for interim status surface impoundments in the Hazardous and Solid Waste Amendments.

**SURFACE WATER** See Water, surface.

**SUSPECT** An adult person considered by the criminal justice agency to be one who may have committed a specific criminal offense, but who has not been arrested or charged.

**SUSPICION** Belief that a person has committed a criminal offense, based on facts and circumstances that are not sufficient to constitute probable cause.

**TAILINGS** The parts, or a part, of any incoherent solid or fluid material separated as refuse, or separately treated as inferior in quality or value, such as remainders, leavings, or dregs; or the gangue and other refuse material resulting from the washing, concentration, or treatment of ground ore; or those portions of washed ore that are too poor to be treated further, used especially of the debris from ore dressing machinery, as distinguished from material to be smelted; or the inferior leavings or residue of any product, foots, or bottoms; or the residuum after most of the valuable ore has been extracted. (ECL § 23-2705(21))

**TANK** (I.) A stationary device designed to contain an accumulation of solid waste or leachate which is constructed primarily of nonearthen material (e.g., wood, concrete, steel, plastic) which will provide structural support (6-1A NYCRR § 360-1.2(155)); (II.) A stationary device designed to contain an accumulation of solid waste, including hazardous waste, which is constructed primarily of nonearthen materials (e.g., wood, concrete, steel,

plastic) which provides structural support (6-1A NYCRR § 370.2(160)); (III.) A stationary device, designed to contain an accumulation of hazardous waste, which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) that provide structural support.

**TANK, ABOVE GROUND** Any stationary tank in which the entire tank volume is above final ground elevation, or any tank which can be inspected in a subterranean vault. For the purpose of this Part, the bottom of the above ground tank can be visually inspected (see also tank). (6-1A NYCRR § 360-1.2(1))

**TANK, INGROUND** A device meeting the definition of tank in this subdivision whereby a portion of the tank wall is situated to any degree within the ground thereby preventing visual inspection of that external surface of the tank that is in the ground. (6-1A NYCRR § 370.2(86))

**TANK, ONGROUND** A tank that is situated in such a way that its bottom is on the same elevation as the adjacent land surface. For the purposes of this Part, the entire bottom surface of the tank cannot be visually inspected. (6-1A NYCRR § 360-1.2(99))

**TANK, PERMANENTLY CLOSED** An out-of-service storage tank which has been emptied of all product and residual materials, cleaned, rendered free of any hazardous or flammable vapors, disconnected from any process or dispensing units, and closed or converted to another purpose consistent with the Department of Environmental Conservation standards for closure. (6-2 NYCRR § 596.1)

**TANK REGULATIONS APPLICABLE TO TREATMENT, STORAGE AND DISPOSAL FACILITIES [The Resource Conservation and Recovery Act SUBPART J]** Tanks, which are stationary devices designed to contain an accumulation of hazardous waste and constructed primarily of non-earthen materials, are regulated in much the same way as containers. (See container regulations). Persons using tanks, either to store or treat wastes, must manage the tanks to avoid leaks, ruptures, spills and corrosion. This includes using freeboard or a containment structure (e.g., dike or trench) to prevent and contain escaping wastes, and having a shutoff or bypass system installed to stop liquid from flowing into a leaking tank.

**TANK SYSTEM** A hazardous waste storage or treatment tank and its associated ancillary equipment and containment system. (6-1A NYCRR § 370.2(161))

**TANK SYSTEM, EXISTING or EXISTING COMPONENT** A tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced if the owner or operator has obtained all Federal, State, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and either: (i) a continuous onsite physical construction or installation program has begun; or (ii) the owner or operator has entered into contractual

obligations, which cannot be canceled or modified without substantial loss, for physical construction of the site or installation of the tank system to be completed within a reasonable time frame. (6-1A NYCRR § 370.2(61))

**TANK SYSTEM, NEW or NEW TANK COMPONENT** A tank system or component that will be used for the storage or treatment of hazardous waste and for which installation or construction has commenced after July 14, 1986. (See also tank system, existing).

**TANK SYSTEM, UNFIT-FOR-USE** A tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment. (6-1A NYCRR § 370.2(177))

**TANK, UNDERGROUND** (I.) Any stationary tank completely or partially covered with earth or other material (6-1A NYCRR § 360-1.2(161)); (II.) A device meeting the definition of tank in this subdivision whose entire surface area is totally below the surface of and covered by the ground (6-1A NYCRR § 370.2(176)).

**TANKER** Any watercraft of more than three hundred gross tons and having a fully loaded draft of seven feet or more used to carry any liquid cargo, including petroleum, oil or water. (ECL § 17-0301(23))

**TANKS, INTERCONNECTED** Tanks that have interconnected piping such that equipment failure at any point in the tank system or operator error could result in the release of hazardous waste from more than one tank into the secondary containment system. (6-1A NYCRR § 370.2(91))

**TCE or TRICHLOROETHYLENE** A chemical used as a solvent that is toxic to both aquatic organisms and humans. It has been shown to be an effective carcinogen in test animals.

**TERATOGEN** A material that causes deformities and mutations in a developing fetus.

**THERMAL TREATMENT** (I.) The treatment of solid waste, including hazardous waste, in a device which uses elevated temperatures as the primary means to change the chemical, physical or biological character or composition of the waste. Examples of thermal treatment processes are incineration, molten salt pyrolysis, calcination, wet air oxidation, and microwave discharge (see also incineration and open burning) (6-1A NYCRR § 370.2(162)); (II.) As referenced in the Resource Conservation and Recovery Act, "thermal treatment" is the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. Incineration is an example of thermal treatment.

**THERMAL TREATMENT REGULATIONS APPLICABLE TO TREATMENT, STORAGE AND DISPOSAL FACILITIES [The Resource Conservation and Recovery Act SUBPART P]** Incineration is only one type of management process that can be used to thermally treat hazardous waste. Less conventional methods, such as molten salt pyrolysis, calcination, wet air oxidation, and microwave discharge, are regulated under this Subpart. Owners and operators who thermally treat hazardous wastes (other than incinerators) must operate the unit following the same requirements applied to an incinerator. The difference is that the thermal treatment standards prohibit open burning of hazardous waste except for the detonation of explosives. (See also incinerator regulations.)

**THIRD PARTY ENFORCEMENT RIGHT** A right which may be granted in a conservation easement which empowers a public body or a not-for-profit conservation organization which is not a holder of the easement to enforce any of the terms of the easement. (ECL § 49-0303(4))

**TITLE 3 PROJECT** Remediation of a municipally owned site through the State Superfund Title 3 Program whereby the state pays 75 percent of the cost of remediation and the municipality pays 25 percent.

**TOXIC AND PRETREATMENT EFFLUENT STANDARD** Standards that are the measure of purity or quality for any waters in relation to their reasonable and necessary use as may be established by the department of Environmental Conservation pursuant to ECL § 17-0301. Toxic and Pretreatment Effluent Standards are those adopted by the federal government pursuant to section 307 of the Federal Water Pollution Control Act as amended, 33 U.S.C.A. section 1315. (ECL § 17-0105(22))

**TOXIC POLLUTANT** Those pollutants, or combination of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly through the food chains, will, on the basis of information available to the Department of Environmental Conservation, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations, in such organisms or their offspring. (ECL § 17-0105(19))

**TOXIC SUBSTANCE CONTROL ACT (TOSCA)** This act allows the federal Environmental Protection Agency to obtain information on new and existing chemicals and mixtures to control the manufacture, distribution and use of such substances. TOSCA also regulates the testing of chemicals. A specific provision governs PCBs (polychlorinated biphenyls).

**TOXICITY, DERMAL LD (rabbit)** A calculated dose of a substance which is expected to cause the death of fifty percent of an experimental rabbit population when applied to the skin. (ECL § 37-0101(3))

**TOXICITY, INHALATION LC (rat)** A calculated concentration of substance in air, exposure to which is expected to cause death of fifty percent of an experimental rat population when inhaled. (ECL § 37-0101(2))

**TOXICITY, ORAL LD (rat)** A calculated dose of a substance which is expected to cause the death of fifty percent of an experimental rat population when administered orally. (ECL § 37-0101(1))

**TRACKING FORM, MEDICAL WASTE** A document required in New York State's, or other states' that must accompany all applicable shipments of **regulated medical wastes** generated within New York State. (6-1A NYCRR § 364.9(2))

**TRACT** Any body of land, including contiguous parcels of land, under one ownership or under common control of any group of persons acting in concert as part of a common scheme or plan. (ECL § 17-1501(2))

**TRANSFER FACILITY** See Facility, transfer.

**TRANSFER INCIDENTAL TO TRANSPORT** Any transfer of waste material associated with storage incidental to transport where such material is not unpackaged, mixed or pumped from one **container** or truck into another. (6-1A NYCRR § 364.1(15))

**TRANSFER STATION** A solid waste management facility, other than a recyclables handling and recovery facility exclusively handling nonputrescible recyclables, that can have a combination of structures, machinery, or devices, where solid waste is taken from collection vehicles and placed in other transportation units for movement to another solid waste management facility. (6-1A NYCRR § 360-1.2(157))

**TRANSIT COUNTRY** Any foreign country, other than a receiving country, through which a hazardous waste is transported. (6-1A NYCRR § 370.2(166))

**TRANSPORT** (I.) The movement of **hazardous waste** from the point of generation to any intermediate point and finally to the point of ultimate storage or disposal (ECL § 27-0901(9)); (II.) The movement of **regulated medical waste** from the point of generation to any intermediate point and finally to the point of ultimate disposal. For the purposes of Title 15 of the ECL, the point of generation with regard to facilities that are generator's of regulated medical waste shall be the point at which the regulated medical waste leaves the generator's facility site. (ECL § 27-1501(4))

**TRANSPORT VEHICLE** See "Vehicle or Transport Vehicle."

**TRANSPORTER** (I.) A person engaged in the off-site transportation of solid waste by air, rail, highway, or water (6-1A NYCRR § 360-1.2); (II.) A person engaged in the offsite

transportation of hazardous waste by air, rail, highway or water (6-1A NYCRR § 370.2(167)); (III.) Any person engaged in the off-site transportation of hazardous waste within the United States, by air, rail, highway, or water, if such transportation requires a manifest under 40 CFR Part 262.

**TRANSURANICS** Elements having atomic number higher than that of uranium (92) such as plutonium prepared by nuclear bombardment.

**TRANSURANICS WASTE (TRU WASTE)** As regards waste disposal, a material which contains more than 100 nanocuries per gram of long-lived transuranic elements. Any waste exceeding this concentration is classified as a Class C waste and is unsuitable for routine low-level radioactive waste disposal because of their long half-life and high toxicity.

**TREATED REGULATED MEDICAL WASTE** Means regulated medical waste that has been treated to substantially reduce or eliminate its potential for causing disease, but has not yet been destroyed. (6-1A NYCRR § 364.9(2))

**TREATMENT** (I.) As used for enforcement in ECL § 72-0401, "treatment" refers to any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to render such waste nonhazardous, safer for transportation, amenable for recovery, amenable for storage, or reduced in volume.; (II.) In reference to regulated medical waste, "treatment" is any method, technique or process designed to change the character or composition of any regulated medical waste so as to either neutralize such waste or to render such waste not infectious, safer for transport, amenable for recovery, amenable for storage or reduced in volume (ECL § 27-1501(5)); (III.) In regard to solid waste, "treatment" is any method, technique or process (except in the case of infectious waste) designed to change the physical, chemical, or biological character or composition of any solid waste to recover energy or materials from it, to render it safer to transport, store or dispose of or to make amenable for reuse, recovery, storage, or reduction in volume (6-1A NYCRR § 360-1.2); and finally, (IV.) As used for industrial hazardous waste, "treatment" is any method, technique, or process, including neutralization, utilized to change the physical, chemical, or biological character or composition of any industrial hazardous waste in order to neutralize such waste or to render it nonhazardous, less hazardous, amenable to recovery, amenable to disposal or storage, safer for or amenable to transport, or reduced in volume. (6-1A NYCRR § 361.1(18))

**TREATMENT (Chemical, Physical, and Biological) REGULATIONS APPLICABLE TO TREATMENT, STORAGE & DISPOSAL FACILITIES (The Resource Conservation and Recovery Act SUBPART Q)** As regards this Act, treatment can be conducted through processes such as distillation, centrifugation, reverse osmosis, ion exchange, and filtration. Because there are many different types of treatment processes, and because the processes

are frequently waste-specific, the federal Environmental Protection Agency has not attempted to develop detailed regulations for any particular type of process or equipment. Instead, general requirements have been established to assure safe containment of hazardous wastes. In most respects, these other treatment methods are very similar to using tanks for treatment, therefore, they are essentially regulated the same way. The requirements that must be met concern avoiding equipment or process failure that could pose a hazard, e.g., reagents or wastes that could cause equipment or a process to fail must not be used in treatment. In addition, safety systems to shut down waste inflow in case of a malfunction must also be installed in continuous flow operations.

**TREATMENT, INFECTIOUS WASTE** Any method, technique or process designed to change the character or composition of any **infectious waste** so as to either neutralize that waste or render that waste noninfectious, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. (6-1A NYCRR § 360-10.3)

**TREATMENT FACILITY** See Facility, treatment.

**TREATMENT FACILITY, TOTALLY ENCLOSED** A facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized. (6-1A NYCRR § 370.2 (164))

**TREATMENT, STORAGE AND DISPOSAL FACILITY, INDUSTRIAL HAZARDOUS WASTE** (I.) According to ECL § 27-1101(5)), An "industrial hazardous waste treatment, storage and disposal facility" is a specialized facility or site other than a low-level radioactive waste management facility subject to the provisions of article twenty-nine of this chapter, or a sewage treatment facility for the purpose of treating, storing, compacting, recycling, exchanging, or disposing of industrial hazardous waste materials, including treatment, compacting, resource recovery or disposal plants, equipment and furnishings thereof used for the storage, treatment, compacting, composting, shredding, converting, utilization, processing, or final disposal of hazardous waste, including but not limited to mechanical, chemical or thermal processing systems, incinerators, sanitary landfills, other facilities for the storage, reduction or conversion of hazardous waste, including but not limited to transfer stations, baling facilities, railroad and maritime facilities, motor trucks or vehicles and appurtenances, furnishings equipment and machinery deemed necessary thereto.; (II.) As referenced in 6-1A NYCRR § 361.1(10)), an "industrial hazardous waste treatment, storage and disposal facility" is a specialized facility or site, other than a sewage treatment plant, used for the purpose of treating, storing, compacting, recycling, exchanging or disposing of industrial hazardous waste materials, including treatment, compacting, resource recovery or disposal plants, equipment and furnishings thereof used for the storage, treatment, compacting, composting, shredding, converting, utilization, processing, or final disposal of hazardous waste, including but not limited to mechanical, chemical or thermal processing systems, incinerators, sanitary landfills, other facilities for the storage, reduction or

conversion of hazardous waste, including but not limited to transfer stations, baling facilities, railroad and maritime facilities, motor trucks or vehicles and appurtenances, furnishings, equipment and machinery deemed necessary thereto.

**TREATMENT, STORAGE, AND DISPOSAL FACILITY or (TSD FACILITY)** (I.) As used in ECL § 72-0401(16)), a Treatment Storage and Disposal (TSD) Facility is all contiguous land and structures, other appurtenances and improvements on the land, used for treating, storing or disposing of hazardous waste. A facility may consist of several treatment, storage or disposal operational units. For the purposes of Title 4, Article 72 of the ECL, a facility subject to regulation under sections 307(b) of the **Clean Water Act** shall not be assessed a separate fee for the pre-treatment of hazardous wastes.; (II.) In reference to hazardous waste in the NYCRR, a TSD is all contiguous land and structures, other appurtenances and improvements on the land, used for treating, storing or disposing of hazardous waste. A facility may consist of several treatment, storage or disposal operations units (e.g., one or more **landfills, surface impoundments** or combinations of them) (6-1A NYCRR § 370.2(170)); and finally (III.) In reference to **solid waste**, a TSD facility is all contiguous land and structures, other appurtenances, and improvements on the land used for treating storing or disposing of solid waste. A facility may consist of several treatment, storage or disposal operations units (e.g., one or more landfills, surface impoundments or combinations of them). (6-1A NYCRR § 364.1(16))

**TREATMENT, STORAGE OR DISPOSAL FACILITY, AUTHORIZED** With respect to a particular **hazardous waste** means a treatment, storage or disposal facility which is authorized, under the laws and regulations of both the Federal government and the state in which it is located, to accept the hazardous waste for treatment, storage or disposal. (6-1A NYCRR § 370.2(14))

**TREATMENT WORKS** Any plant, disposal field, lagoon, pumping station, constructed drainage ditch or surface water intercepting ditch, **incinerator**, area devoted to **sanitary landfills**, or other work not specifically mentioned herein, installed for the purpose of treating, neutralizing, stabilizing, or disposing of **sewage**, industrial wastes or other wastes. (ECL § 71-1932, ECL § 17-0105(9))

**TREATMENT ZONE** A soil area of the **unsaturated zone** of a **land treatment** unit within which hazardous constituents are degraded, transformed or immobilized. (6-1A NYCRR § 370.2(171))

**TRIAL** The examination of issues of fact and law in a case or controversy, beginning when the jury has been selected in a jury trial, or when the first witness is sworn, or the first evidence introduced in a court trial, and concluding when a verdict is reached or the case is dismissed.

**TRICHLOROETHYLENE** See TCE.

**UNCLASSIFIED MISDEMEANOR** An unclassified misdemeanor is the criminal classification for any offense outside the Penal Law for which a sentence of one year or less is specified. Any offense classified as a misdemeanor outside the Penal Law which is without a specific sentence defaults to a class A misdemeanor. (PL § 70.10)

**UNDERGROUND INJECTION** The subsurface emplacement of semisolid or liquid solid waste through a bored, drilled, or driven well or through a dug well, where the depth of the dug well is greater than the largest surface dimensions. (6-1A NYCRR § 360-1.2)

**UNDERGROUND INJECTION REGULATIONS APPLICABLE TO TREATMENT, STORAGE, DISPOSAL [The Resource Conservation and Recovery Act SUBPART R]** Specific requirements for **owners** and **operators** of underground injection facilities have not been established under the Resource Conservation and Recovery Act. Owners and operators of these facilities must meet the general standards outlined in Subparts A through E of 40 CFR. They are not required to meet the Resource Conservation and Recovery Act closure/post-closure or financial requirements (Subparts G and H of 40 CFR Part 265). However, the **Hazardous and Solid Waste Amendments** in Section 7010 prohibits the **disposal of hazardous waste by underground injection into or above a formation within 1/4 mile of an underground source of drinking water.**

**UNDERGROUND SOURCE OF DRINKING WATER** An **aquifer** or its portion: (i) which supplies any public water system; or (ii) which contains a sufficient quantity of **groundwater** to supply a public water system; and (a) currently supplies drinking water for human consumption; or (b) contains fewer than 10,000 mg/1 total dissolved solids; and (iii) which is not an exempted aquifer. (6-1A NYCRR § 370.2(175))

**UNLAWFUL DEALING IN HAZARDOUS WASTES** Sections 71-2175 and 71-2717 of the New York State Environmental Conservation Law prohibit the unlawful dealing in **hazardous waste**. These provisions penalize those who solicit or facilitate the unlawful **disposal** of hazardous wastes. Of particular concern to enforcement authority is the use of unlicensed haulers of hazardous material to facilities for disposal.

**UNLAWFUL DISPOSAL OF HAZARDOUS WASTES** Sections 71-2711 and 71-2713 of the New York State Environmental Conservation Law prohibit the unauthorized **disposal** of **hazardous waste**. Pursuant to section 71-2702(5), disposal includes "the **discharge**, deposit, injection, dumping, **spilling**, leaking or placing of any waste or hazardous waste into or on any land or water so that such waste or hazardous waste or any related constituent thereof may enter the **environment** or be emitted into the air or discharged into any waters of the state including **groundwater** thereof." Disposal may include the "**incineration** of waste or hazardous waste and the burning of waste or hazardous waste for the purpose of recovering usable energy." As the economic cost of properly disposing of hazardous waste increases,

so too does the economic incentive to engage in improper disposal practices. These provisions are intended to encourage the proper disposal of hazardous waste in accordance with the provision of State and federal law.

**UNLAWFUL POSSESSION OF HAZARDOUS WASTE** Section 71-2727 and 71-2709 of the New York State Environmental Conservation Law prohibits the unauthorized possession of **hazardous waste**. The provisions are intended to encourage the proper handling of hazardous waste and minimize its storage in excess of the prescribed time period and quantity.

**UNLAWFUL TRANSPORTATION OF HAZARDOUS WASTES** Title 6 NYCRR Part 364 of the New York State Code of Rules and Regulations requires that a **permit** be obtained to **transport hazardous waste**. The conditions for obtaining the permit include the use of a permitted disposal facility and acquisition of liability insurance.

**UNLAWFUL TRANSPORTATION OF INFECTIOUS WASTE** The discovery of **medical waste** on New York's shores in the summers of 1987 and 1988 prompted the State to enact legislation designed to regulate the management and **disposal** of **infectious medical waste** (see also **floatables, red bag waste**). Recent amendments to the law (Ch. 654 of the Laws of 1988) have expanded the scope of the law and increased criminal penalties for its violation.

**UNSANITARY CONDITION OR CONDITIONS** Such condition or conditions as are a menace to the public health. (ECL § 15-2101(13))

**UNSATURATED ZONE** and **ZONE OF AERATION** (I.) The zone between the land surface and the **saturated zone** in which the void spaces in soil or rock are only partially or intermittently filled with water (6-1A NYCRR § 360-1.2(162)); (II.) The zone between the land surface and the **saturated zone** (6-1A NYCRR § 370.2(178)).

**UNSTABLE** (as regards radioactive materials) materials possessing the tendency to change or decompose into other nuclear forms.

**UNSTABLE MATERIALS** (See **Reactivity (instability) hazards**).

**UNTREATED REGULATED MEDICAL WASTE** Means **regulated medical waste** that has not been treated to substantially reduce or eliminate its potential for causing disease. (6-1A NYCRR § 364.9(2))

**UNWHOLESOME** In some way harmful to physical, mental or moral health.

**UPGRADIENT WATER QUALITY** The chemical composition of water in the stream or groundwater which is hydraulically upgradient (in the direction of increasing static head) of the facility and which is representative of the flow system before it has passed by or beneath the facility. (6-1A NYCRR § 360-1.2(164))

**UPGRADING** Construction, reconstruction, renovation, or other processes or activity necessary to ensure that an existing **incinerator** or **furnace** or **boiler** meets air quality emission standards promulgated by the commissioner of the Department of Environmental Conservation. (ECL § 51-0503(4))

**UPPERMOST AQUIFER** (See **Aquifer, uppermost.**)

**USED ENGINE LUBRICATING OIL RETENTION FACILITY** See **Facility, used engine lubricating oil retention.**

**USED ENGINE LUBRICATING OIL** See, **Oil, used engine lubricating.**

**USED or REUSED** A material is used or reused if it is either: (i) employed as an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal containing secondary materials); or (ii) employed in a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorus precipitant and sludge conditioner in wastewater treatment). (6-1A NYCRR § 370.2(c)(8))

**VECTOR** (I.) A carrier that is capable of transmitting a pathogen from one organism to another, including but not limited to flies and other insects, rodents, birds, and vermin (6-1A NYCRR § 360-1.2); (II.) A carrier, usually an insect, which is capable of transmitting disease from one organism to another.

**VEHICLE** (I.) Any motor vehicle, trailer, water vessel, railroad car, airplane, or other device for transporting **solid waste** (6-1A NYCRR § 360-1.2(166)); (II.) Any device or contrivance which is required by law to be registered with a state, province or the Federal Government for conveyance over public roads and which actually contains or carries a **regulated waste**. For example in the case of a tractor-trailer combination, the trailer is considered to be the vehicle; and in the case of a roll-off **container** or other removable containment device, it is the mobile flatbed or the undercarriage that is considered to be the vehicle (6-1A NYCRR § 364.1(17))

**VERDICT** In criminal proceedings, the decision made by the jury in a jury trial, or by a judicial officer in a court trial, that a **defendant** is either guilty or not guilty of the **offense(s)** for which s/he has been tried. In entering a **judgment** a judicial officer has the power to

reject a jury verdict of guilty, but must accept a verdict of not guilty. Thus a verdict of not guilty results in a judgment of acquittal, but a verdict of guilty does not necessarily result in a judgment of conviction.

**VESSEL** Includes every description of watercraft, used or capable of being used as a means of transportation on the water. (6-1A NYCRR § 370.2(183))

**VOLUME REDUCTION** A type of waste treatment whose purpose is to reduce the volume of waste (i.e., evaporation, compaction, incineration).

**WARRANT, ARREST** A document issued by a judicial officer which directs a law enforcement officer to arrest a person who has been accused of an offense. In order for a judicial officer to issue a warrant, s/he must have had presented to him/her either a sworn complaint or evidence of probable cause. An arrest warrant may or may not specifically identify the person to be arrested and if that is the case it is referred to as a "John Doe" warrant.

**WARRANT, BENCH** A document issued by a judicial officer directing that a person who has failed to obey an order or notice to appear be brought before the court. Summons, subpoenas and citations (appear) may result in the issuance of a bench warrant if disobeyed.

**WARRANT, SEARCH** A document issued by a judicial officer which directs a law enforcement officer to conduct a search for specified property or persons at a specific location, to seize the property or persons, if found, and to account for the results of the search to the issuing judicial officer. The probable cause for issuing the warrant must be specified in the search warrant.

**WASTE** Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, and other discarded material, including solid, liquid, or semi-solid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under article seventeen of the ECL, or subject to permits under section four hundred two of the federal Water Pollution Control Act, as amended (86 § 880) (ECL § 27-0901(11) or source, special nuclear by-product material as defined in the Atomic Energy Act of 1954, as amended (68 § 923) except as may be provided by existing agreements between the state and the federal government. (ECL § 72-0501)

**WASTE, ACUTE HAZARDOUS** Those wastes identified or listed as "acute hazardous wastes" in regulations promulgated pursuant to section 27-0903 of the ECL of Chapter 27 and all amendments thereto. (ECL § 71-2702(2))

**WASTE ANALYSIS** Waste analysis is conducted prior to treatment, storage and disposal to ensure that **owners or operators** possess sufficient information on the properties of the waste they manage to be able to treat, store, or dispose of them in a manner that will not pose a threat to human health or the **environment**. The Resource Conservation and Recovery Act regulations require owners or operators of treatment, storage and disposal facilities to perform detailed chemical and physical analysis of their wastes, to develop and follow a written waste analysis plan that specifies tests and test frequencies, and to test any incoming wastes.

**WASTE, ASBESTOS** For the purposes of this Part, "asbestos" is friable solid waste that contains more than one percent asbestos by weight and can be crumbled, pulverized or reduced to powder, when dry, by hand pressure. Asbestos waste also includes any asbestos-containing solid waste that is collected in a pollution control device designed to remove asbestos (see **Asbestos**). (6-1A NYCRR § 360-1.2(12))

**WASTE, BYPASS** Any solid waste that is either within the control of the operator of a solid waste incinerator or processing facility or within the control of another person, that is destined for treatment at the facility but cannot be so treated, and includes: (i) **downtime waste**, meaning any treatable or burnable solid waste accumulated during a scheduled or unscheduled maintenance period of the facility; or (ii) **excess waste**, meaning solid waste which cannot be treated because the facility is operating at the approved design capacity. (6-1A NYCRR § 360-1.2(19))

**WASTE, CHEMICAL** Liquid or semi-liquid waste other than **waste oil**, including but not limited to spent solvents, tars, paints, resins and wastes and **sludges** from any process. (6 NYCRR § 225-2.2)

**WASTE, COMMERCIAL** Solid waste generated by stores, offices, institutions, restaurants, warehouses, and nonmanufacturing activities at industrial facilities. (6 NYCRR § 219-1.1, statutory authority from ECL Section 3-0301, 19-0301, 19-0306)

**WASTE, DOWNTIME** Any treatable or burnable waste accumulated during a scheduled or unscheduled maintenance period of a **treatment facility**. (ECL § 27-0704(1(c)); 6-1A NYCRR § 360-1.2(19)(i))

**WASTE, EXCESS** Solid waste which cannot be treated because the **facility** is operating at the approved design capacity. (6-1A NYCRR § 360-1.2(19)(ii))

**WASTE, FOOD PROCESSING** Waste resulting solely from the processing of crops and related food products. Food processing waste includes but is not limited to: (i) vegetative residues that are recognizable as part of a plant, fruit, or vegetable (e.g. corn husks, cabbage leaves, grape and apple pomace, bean snips, and carrot, tomato, and potato skins); or (ii) any solid, semisolid or liquid food sludge or residue that is nonrecognizable but identifiable

by analysis or is certified as solely a **byproduct** of plant, fruit, vegetable or dairy processing (e.g. milk and cheese whey, brewery and winery waste, and byproducts from canned, frozen, or preserved fruit and vegetable processing operations). (6-1A NYCRR § 360-1.2(62))

**WASTE, HAZARDOUS** (I.) As defined in the Resource Conservation and Recovery Act § 1004(5), the term "hazardous waste" means a **solid waste**, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may: A) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or B) pose a substantial present or potential hazard to human health or the **environment** when improperly treated, stored, transported, or disposed of, or otherwise managed; (II.) The definition sections for hazardous wastes can be found in ECL § 27-0901 and 71-2702. Article 27, Title 9 contains the regulatory sections for hazardous wastes. Prohibition sections are found in Sections 27-0913 and 27-0914. Criminal sanction provisions are located in Article 71, Title 27. Regulations are set forth in 6 NYCRR Part 370 to 373. Statutory structure of ECL Article 27, Title 9 permits the Department of Environmental Conservation (DEC) to provide detail by regulation. Hence, the statutory definition found in ECL § 27-0901(3) has been held to be a legislative guide, setting forth the boundaries by which DEC can define hazardous wastes. In fact, to be eligible for Federal funding DEC has very little discretion. It must include those materials defined through Federal regulations. This was further clarified by ECL § 27-0903 which, in effect, mandated that DEC follow the federal Environmental Protection Agency's (EPA) lead. The analogous Federal statute for hazardous wastes is the **Resource Conservation and Recovery Act (RCRA)**(42 U.S.C.A. S 6901 to 6987).

**WASTE, HOUSEHOLD** Solid waste discarded from single or multiple dwellings, hotels, motels, campsites, public and private recreation areas, ranger stations, and other residential sources. (6-1A NYCRR § 360-1.2(78))

**WASTE, HOUSEHOLD HAZARDOUS** Household waste which but for its point of generation, would be a **hazardous waste** under Part 371 of this Title, including pesticides and other residential sources. (6-1A NYCRR § 360-1.2(77))

**WASTE, INCOMPATIBLE** A **hazardous waste** which is unsuitable for: (i) placement in a particular device or facility because it may cause corrosion or decay of containment materials; or (ii) commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes or gases, or flammable fumes or gases. (6-1A NYCRR § 370.2(83))

**WASTE, INDUSTRIAL** (I.) Any liquid, gaseous, solid or waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any **natural resources**, which may cause or might reasonably be expected to cause **pollution** of the **waters of the state** in contravention of the standards adopted as provided herein. (ECL § 17-0105(5)); (II.) This means **solid waste** generated by

manufacturing or industrial processes. Such waste may include, but is not limited to the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resin manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, clay, glass and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include oil or gas drilling, production, and treatment wastes (such as brines, oil and frac fluids); or overburden, spoil or tailings resulting from mining; or solution mining brine and insoluble component waste. (6-1A NYCRR § 360-1.2)

**WASTE, INDUSTRIAL HAZARDOUS** An **industrial waste** or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may: (a) cause or significantly contribute to an increase in serious irreversible, or incapacitating reversible illness; (b) pose a substantial present or potential hazard to human health or the **environment** and, therefore, must be segregated and excluded from the general municipal waste system and sewage collection and treatment process. See **Industrial Hazardous Waste Treatment, Storage and Disposal Facilities**. (ECL § 27-1101(4))

**WASTE, INDUSTRIAL-COMMERCIAL** (I.) A waste which originates at, is generated by, or occurs as a result of any industrial or commercial activity. The forms of waste included are exemplified by but not limited to the following: (a) liquids such as: acids, alkalis, caustics, leachate, petroleum (and its derivatives), and process or treatment wastewaters; (b) sludges which are semisolid substances resulting from process or treatment operations, or residues from storage or use of liquids; (c) solids such as: semisolid chemicals, paints, or pigments; the end or by-products of incinerator ash; foundry sand; dredge spoil; (d) contained gaseous materials; (e) hazardous wastes as defined in title nine of article twenty-seven of ECL chapter 72; and (f) any liquid, sludge, septage, solid, semisolid substance or contained gaseous material in which any of the foregoing is intermixed or absorbed, or onto which any of the foregoing is adhered (ECL § 72-0501(1)(ECL § 27-0303(2)); (II.) An "industrial-commercial waste" is any **solid waste** which originates at, is generated by, or occurs as a result of any industrial or commercial activity. Industrial-commercial wastes are exemplified by, but not limited to: (i) liquids such as: (a) acids, alkalis, caustics, leachate, petroleum (and its derivative), and process or treatment wastewaters; (b) sludges, which are semi-solid substances resulting from process or treatment operations or residues from storage or use of liquids; (ii) solids such as: (a) solidified chemicals, paints or pigments; (b) dredge spoil, foundry sand, and the end or by-products of incineration or other forms of combustion, including bottom ash and fly ash; (iii) contained gaseous materials; (iv) hazardous waste as defined in section 371.1(d) of this Title; (v) any liquid, sludge, septage, solid, semi-solid substance or contained gaseous material in which any of the foregoing is intermixed or absorbed, or onto which any of the foregoing is adhered; and (vi) **medical waste**. (6-1A NYCRR § 364.1(3))

**WASTE, INFECTIOUS** (I.) Shall mean and include the following: (i) surgical waste, which consists of materials discarded from surgical procedures involving the treatment of a patient on isolation, other than patients on reverse or protective isolation; (ii) obstetrical waste, which consists of materials discarded from obstetrical procedures involving the treatment of a patient on isolation, other than patients on reverse or protective isolation; (iii) pathological waste, which consists of discarded human tissues and anatomical parts which are discarded from surgery, obstetrical procedures, autopsy and laboratory procedures; (iv) biological waste, which consists of discarded excretions, exudates, secretions, suctionings and disposable medical supplies which have come in contact with these substances that cannot be discarded directly into a sewer and that emanate from the treatment of a patient on isolation, other than patients on reverse or protective isolation; (v) discarded materials soiled with blood emanating from the treatment of a patient on isolation, other than patients on reverse or protective isolation; (vi) all waste being discarded from renal dialysis, including tubing and needles; (vii) discarded serums and vaccines that have not been autoclaved or returned to the manufacturer or point of origin; (viii) discarded laboratory waste which has come in contact with pathogenic organisms and which has not been rendered noninfectious by autoclaving or other sterilization techniques; (ix) animal carcasses exposed to pathogens in research, their bedding and other waste from such animals that is discarded; and (x) other articles that are being discarded that are potentially infectious and that might cause punctures or cuts, including hypodermic needles, intravenous needles and intravenous tubing with needles attached (aka "sharps"), that have not been autoclaved or subjected to a similar decontamination technique and crushed or otherwise rendered incapable of causing punctures or cuts. (6-1A NYCRR 364.1(12))

**WASTE, LOW-LEVEL RADIOACTIVE (LLRW)** Radioactive material that is not high-level radioactive waste, transuranic waste, spent nuclear fuel, or the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content. (6-1A NYCRR § 364.1(10))

**WASTE, LOW-LEVEL RADIOACTIVE** Radioactive material that: (a) is not high-level radioactive waste, transuranic waste, spent nuclear fuel, or the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, and (b) the United States nuclear regulatory commission, consistent with federal law and in accordance with paragraph a of this subdivision, classifies as low-level radioactive waste. (ECL § 72-0501, ECL § 29-0101(1))

**WASTE MANAGEMENT FACILITIES, LOW-LEVEL RADIOACTIVE** Facilities authorized pursuant to section eighteen hundred fifty-four-c of the public authorities law for permanent disposal of low-level radioactive waste and any associated facilities for and any associated facilities for treatment and handling of such waste, including, but not limited to, facilities for purposes of stabilization, volume reduction, or protection of health and safety of workers or members of the public from potential exposure to hazards. (ECL § 29-0101(2))

**WASTE MANAGEMENT PLANNING, SOUND, COMPREHENSIVE** The results of a study financed under section 1361 of the Public Health Law or other solid waste management study which is current and meets the general requirements established by Public Health Law section 1360 and which has the approval of the Commissioner of the Department of Environmental Conservation. (6-1A NYCRR § 362.2(h))

**WASTE, MEDICAL** (I.) All noninfectious medical waste; and infectious waste. Medical waste does not include household waste, meaning any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas) (6-1A NYCRR § 364.1(11)); (II.) The definition sections are found in ECL § 27-1501; regulatory sections are contained in sections ECL § 27-1503 to ECL § 27-1515. Prohibition sections are set forth in sections ECL § 27-1507; ECL § 27-1509 and ECL § 27-1511(2). Criminal sanctions sections are located in ECL § 71-4402 to ECL § 71-4409. New York State enacted Article 27, Title 15 to control infectious waste.

**WASTE, MUNICIPAL SOLID** All materials or substances discarded from single and multiple family dwellings, and other residential sources; similar types of materials from institutional, commercial and industrial sources; concurrently incinerated sewage sludge but not hazardous waste. (6 NYCRR § 219-1.1)

**WASTE, NON-INFECTIOUS MEDICAL** Shall mean and include waste from nonisolation units resulting from patient care and infectious waste which has been decontaminated by approved procedures but shall not include infectious waste or cafeteria wastes, paper and refuse, medical supply packaging, incinerator ash, etc. (6-1A NYCRR § 364.1(13))

**WASTE, NON-SPECIFIED SOURCE** One of the three lists of Hazardous Wastes recognized by the federal Environmental Protection Agency under the Resource Conservation and Recovery Act. These are generic wastes, commonly produced by manufacturing and industrial processes. Examples from this list include spent halogenated solvents used in degreasing, and wastewater treatment sludge from electroplating processes (see Listings of Hazardous Waste.)

**WASTE OIL** (I.) Used and/or reprocessed engine lubricating oil and/or any other used oil, including, but not limited to, fuel oil, engine oil, gear oil, cutting oil, transmission fluid, hydraulic fluid, dielectric fluid, oil storage tank residue, animal oil and vegetable oil, which has not subsequently been refined. (6 NYCRR § 225-2.2); (II.) Used engine lubricating oil and any other oil, including but not limited to fuel oil, motor oil, gear oil, cutting oil, transmission fluid, hydraulic fluid, dielectric fluid, oil storage tank residues, animal oil and vegetable oil, which has been contaminated by physical or chemical impurities, through use or accident, and has not subsequently been rerefined. (6-1A NYCRR § 360-14.2); (6-1A NYCRR § 370.2(184); 6-1A NYCRR § 364.1(7))

**WASTE OIL STORAGE FACILITY** See Facility, waste oil storage.

**WASTE, RED BAG** The term used in the health care industry to identify medical waste because traditionally such wastes were kept in red bags. Red bags are now mandated by New York State ECL § 27-1501.

**WASTE, REGULATED** (I.) Any one of the following types of waste: raw sewage, septage, sludge from a sewage or water supply treatment plant, industrial-commercial waste or waste oil. (ECL § 72-0501) Also low-level radioactive waste as defined in subdivision nine of Article twenty-seven, Title three of the ECL or waste oil (ECL § 27-0303(4)); (II.) A solid waste which is raw sewage, septage, sludge from a sewage or water supply treatment plant, waste oil or industrial-commercial waste, including hazardous waste. (6-1A NYCRR § 364.1(2))

**WASTE, REGULATED MEDICAL** Any waste which is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, when listed pursuant to section ECL § 27-1502, provided, however, that "regulated medical waste" shall not include any hazardous waste identified or listed pursuant to section ECL § 27-0903, or any household waste as defined in regulations promulgated under such section. (ECL § 27-1501(1))

**WASTE PILES REGULATIONS APPLICABLE TO TREATMENT, STORAGE AND DISPOSAL FACILITIES [The Resource Conservation and Recovery Act SUBPART L]** An owner or operator of a waste pile, used for treatment or storage of a non-containerized accumulation of solid, non-flowing hazardous waste, is given a choice regarding management requirements. S/he may comply with either the waste pile or landfill requirements. Waste piles used for disposal, however, must comply with the requirements for landfills. The requirements for managing storage and treatment waste piles involve protecting the pile from wind dispersion. If hazardous leachate or run-off is generated, control systems must be constructed, operated and maintained (see also hazardous and solid waste amendments).

**WASTE, SOLID** (I.) Any materials or substances discarded or rejected as being spent, useless, worthless, or in excess to the owner at the time of such discharge or rejection, except sewage and other highly diluted water carried materials or substances and those in gaseous form (ECL § 19-0306(b)); (II.) All materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous materials, incinerator residue, demolition and construction debris and offal but not including sewage and other highly diluted water carried materials or substances and those in gaseous form (ECL § 51-0903(1)); (III.) All putrescible and nonputrescible materials or substances that are discarded or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or

rejection, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, discarded automobiles, and offal (6-1A NYCRR § 360-1.2); (IV.) A specific definition of "solid waste" is outlined in 6-1A NYCRR § 364.1(d)(1); as any garbage, refuse, sludge or any solid, liquid, semi-solid or contained gaseous material, resulting from industrial, commercial, mining, agricultural, community or other activities, not excluded below, which is discarded, **disposed of**, burned or **incinerated**, including being burned as a fuel for the purpose of recovering usable energy, or is being accumulated, stored, or physically, chemically, or biologically treated in lieu of or prior to being disposed of, burned or incinerated, or which has served its original intended use and is sometimes discarded, or is a manufacturing or mining **by-product** and sometimes is discarded. The following materials are not solid wastes for the purposes of this Part: (i) domestic sewage and any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works for treatment ("domestic sewage" means untreated sanitary wastes that pass through a sewer system); (ii) industrial **wastewater** discharges that are **point source** discharges for which a **permit** has been issued pursuant to article 17 of the Environmental Conservation Law; this exclusion applies only to the actual point source discharge. The exclusion does not apply to industrial wastewaters while they are being collected, stored or treated before discharge, nor does it apply to sludges that are generated by industrial wastewater treatment; (iii) irrigation return flows; (iv) radioactive materials which are source, special nuclear, or by-product material. For the purposes of this Part: "Source Material" means uranium and/or thorium; "special nuclear material" means plutonium, uranium 233, uranium enriched in uranium 233 or uranium 235, or any material artificially enriched by these; and "by-product material" means radioactive material yielded in or made radioactive by exposure to radiation incident to the process by producing or utilizing special nuclear materials, **tailing** or waste produced by the extrication or concentration of uranium or thorium from any ore processed primarily for its source material content; and (v) materials subject to in-site mining techniques which are not removed from the ground as part of the extraction process; (v.) As defined in the Resource Conservation and Recovery Act the term "solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under the **Clean Water Act**, or special nuclear or byproduct material as defined by the Atomic Energy Act of 1954.

**WASTE, SPECIFIED SOURCE** (40 CFR Section 261.32) One of three lists developed by the federal Environmental Protection Agency as a **hazardous waste**. This list consists of wastes from specifically identified industries such as wood preserving, petroleum refining and organic chemical manufacturing. These wastes typically include sludges, still bottoms, **wastewaters**, spent catalysts, and residues, e.g., wastewater treatment sludge from the production of pigments. (See **Listings of Hazardous Waste**.)

**WASTE TIRE** Any tire that has ceased to serve the purpose for which it was initially intended due to factors such as, but not limited to wear or imperfections, and has been discarded. (6-1A NYCRR § 360-1.2(167))

**WASTE, UNTREATABLE** "Untreatable waste" for a solid waste incinerator, includes but is not limited to: batteries, refrigerators, stoves, freezers, washers, dryers, bedsprings, vehicle frame parts, crankcases, transmissions and engines, lawn mowers, snow blowers, bicycles, file cabinets, air conditioners, hot water heaters, water storage tanks, water softeners, furnaces, oil storage tanks, metal furniture, propane tanks, and clean fill. (6-1A NYCRR § 360-1.2)

**WASTE, YARD** Leaves, grass clippings, garden debris, and small or chipped branches. (6-1A NYCRR § 360-1.2(169))

**WASTES, OTHER** Article seventeen of the ECL regarding Water Pollution Control, breaks down wastes into three categories (1) sewage (ECL § 17-0105(4)), (2) industrial-commercial wastes (ECL § 17-0105(5)), and (3) "other wastes" which include garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, ballast and all other discarded matter not sewage or industrial waste which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards adopted as provided herein. (ECL § 17-0105(6))

**WASTEWATER** Liquid waste that contains: (a) a minimum of ninety-five percent water by weight, and (b) a maximum of one percent by weight of total organic carbon, and (c) a maximum of one percent by weight of total suspended solids (i.e., total filterable solids). (ECL § 72-0401)

**WASTEWATER TREATMENT UNIT** A device which: (i) is part of a wastewater treatment facility which is a surface water point source discharge subject to regulation under ECL article 17 or is subject to regulation under section 307(b) of the Clean Water Act (see section 370.1[e] of this Part); (ii) receives and treats or stores an influent wastewater which is a hazardous waste as defined in Part 371 of this Title, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in Part 371, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in Part 371; and (iii) meets the definition of tank. (6-1A NYCRR § 370.2(185))

**WATER** "Waters" shall be construed to include lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the State of New York, and all other bodies of surface or underground water, natural or artificial, inland or coastal, fresh or salt, public or private, which are wholly or partially within or bordering the state within its jurisdictions. (ECL § 15-0107)

**WATER (BULK SHIPMENT)** The bulk transportation of hazardous waste that is loaded or carried on board a vessel without containers or labels. (6-1A NYCRR § 370.2(186))

**WATER QUALITY, EXISTING** The chemical composition of ground or surface water before deposition of solid waste in a solid waste management facility. (6-1A NYCRR § 360-1.2(52))

**WATER QUALITY, OPERATIONAL** The chemical quality of ground or surface water once deposition of solid waste has begun at the solid waste management facility. (6-1A NYCRR § 360-1.2)

**WATER REGULATIONS** The definition section for water can be found in NYS ECL § 17-0105, 17-0701 and 71-1932. Regulatory statutes are primarily set forth in Titles 3, 5, 7 and 8 of Article 17. Prohibition statutes are found in sections 17-0501, 17-0503, 17-0505, 17-0507, 17-0701(1), 17-0803 and 17-0807. Criminal sanctions for water violations are contained in ECL § 71-1933. The regulations governing the water program are found in 6 NYCRR Parts 650 through 800. Environmental laws concerning the waters of the State, like the hazardous waste laws are patterned after a Federal statute namely, the Federal Water Pollution Control Act as amended by the Clean Water Act, 33 U.S.C.A SS 1251 to 1376.

**WATER RESOURCES** Water and related natural resources in, on, under, or above the ground, including related uses of land, which are subject to beneficial use, ownership or control. (ECL § 21-0701(i))

**WATER SUPPLY AQUIFER AREAS, PRIMARY** Those areas in the counties of Nassau, Suffolk, Kings and Queens and the Schenectady aquifer (commonly known as the Great Flats aquifer), as identified in the 1981 New York State Department of Health report on groundwater dependence in New York State, and defined in the United States Geologic Survey maps for such aquifers, or any amendments to such boundaries which are accepted by the commissioner of the Department of Environmental Conservation. (ECL § 15-0514(a)(1))

**WATER SUPPLY, PRIMARY** A body of surface water, fresh or saline or water in a saturated zone or stratum beneath the surface of the land or water, best usage of which includes being used for drinking, culinary or food processing including potable mineral waters, and so classified in regulations promulgated pursuant to section 15-0313 or 17-0301 of the ECL. (ECL § 71-2702)

**WATER SUPPLY SYSTEM, PUBLIC** The public treatment facilities, transmission facilities and source of supply facilities to provide water for residential, commercial, industrial and fire service needs for areas located in two or more municipalities. (ECL § 15-1301(2))

**WATER, SURFACE** Lakes, bays, ponds, impounding reservoirs, perennial streams and springs, rivers, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of New York State, and all other perennial bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private. **Surface impoundments at solid waste management facilities** are not surface waters. (6-1A NYCRR § 360-1.2)

**WATER TABLE** The level below the ground at which the soil is saturated with water.

**WATERS OF THE STATE** A major difference between the Federal and State water statutes is jurisdiction. Under the **Clean Water Act**, the focus is upon **surface waters** or navigable waters of the United States. Under the NYS ECL, "waters of the state" is defined to include both surface and underground waters (See ECL sections 17-0105(2)). This is significant since many of the criminal water violations involve the illegal use of cesspools and sewer systems which do not discharge directly into surface waters.

**WATERSHED** An area where water drains into a specific basin or reservoir, or, for **groundwater**, a region where water is abundantly recharged to the subsurface groundwater reservoir. (ECL § 55-0107)

**WELL** Any shaft or pit dug or bored into the earth, generally cylindrical, and often walled with bricks, tubing or casing to prevent the earth from caving in. (6-1A NYCRR § 370.2)

**WELL, INPUT a.k.a. INTAKE WELL** Any well drilled, deepened, plugged back or converted in any pool, or underground stratum or horizon for the purpose of injecting, disposing, or storing fluids or gaseous substances. (6-2 NYCRR § 550.3)

**WETLANDS** Lands and lands under water which may be permanently, temporarily or intermittently covered with fresh or salt water and commonly referred to as flood basins or flats, meadows, marshes, shrub-swamps, wooded swamps, swamps or bogs. (6-2 NYCRR § 627.1)(ECL § 51-0703(7))

**WETLANDS, FRESHWATER** Lands and **waters of the state** as shown on the freshwater wetlands map which contain any or all of the following: (a) lands and submerged lands commonly called marshes, swamps, sloughs, bogs, and flats supporting aquatic or semi-aquatic vegetation of the following types: (1) wetland trees, which depend upon seasonal or permanent flooding or sufficiently water-logged soils to give them a competitive advantage over other trees; (2) wetland shrubs which depend upon seasonal or permanent flooding or sufficiently water-logged soils to give them a competitive advantage over other shrubs; (3) emergent vegetation; (4) rooted, floating-leaved vegetation; (5) free-floating vegetation; (6) wet meadow vegetation, which depends upon seasonal or permanent flooding or sufficiently water-logged soils to give it a competitive advantage over other open land vegetation; (7) bog mat vegetation; (8) submergent vegetation; (b) lands and submerged lands containing remnants of any vegetation that is not aquatic or semi-aquatic that has died because of wet conditions over a sufficiently long period, provided that such wet conditions do not exceed

a maximum seasonal water depth of six feet and provided further that such conditions can be expected to persist indefinitely, barring human intervention; (c) lands and waters substantially enclosed by aquatic or semi-aquatic vegetation as set forth in paragraph (a) or by dead vegetation as set forth in paragraph (b), the regulation of which is necessary to protect and preserve the aquatic and semi-aquatic vegetation; and (d) water overlying the areas set forth in (a) and (b) and the lands underlying (c). (for specific plant species information see ECL § 24-0107(1))

**WETLANDS, TIDAL** Shall mean and include the following: (a) those areas which border on or lie beneath tidal waters, such as, but not limited to, banks, bogs, salt marsh, swamps, meadows, flats or other low lands subject to tidal action, including those areas now or formerly connected to tidal waters; (b) all banks, bogs, meadows, flats and tidal marsh subject to such tides, and upon which grow or may grow some or any of the following: salt hay, black grass, saltworts, sea lavender, tall cordgrass, etc. (for further information regarding plant species refer to ECL § 25-0103(1(a-b))

**WILDLIFE HABITAT** Specific areas essential for the conservation of threatened and endangered species which require special management considerations or protection for maintenance of such species. (ECL § 52-0101)

**WILLFULLY** This term is not defined in the Penal Law but can be found in the Federal case law in several areas. Willful has been held to mean a "voluntary, intentional violation of a known legal duty; there is no requirement of showing of "evil motive" beyond a specific intent to violate the law." U.S. v. Pomponio, 429 U.S. 10, 97 S.Ct. 22 (1976).

**WITNESS** A person who directly perceives an event or thing, or who has expert knowledge relevant to a case. In the investigation of crimes, persons with indirect knowledge of the circumstances of a case may be listed as witnesses.

**WORKING FACE** That portion of a landfill where solid waste is discharged and compacted before placement of cover material. (6-1A NYCRR § 360-1.2(168))

**ZONE OF ENGINEERING CONTROL** An area under the control of the owner or operator, that upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to groundwater or surface water. (6-1A NYCRR § 370.2(188))

**ZONING AND LAND USE REGULATIONS, LOCAL** Those laws, ordinances, rules and regulations adopted by a municipality pursuant to a master land use plan. (6-1A NYCRR § 361.1(11))

## **APPENDIX A**

### **ACRONYMS**

AG	Attorney General
ALJ	Administrative Law Judge
ASTSWMO	Association of State and Territorial Solid Waste Management Officials
ATS	Aqueous Treatment System
ATSDR	United States Department of Health and Human Services Agency for Toxic Substances and Disease Registry
BTX	Benzene, Toluene, and Xylene
CAA	Clean Air Act
CCH	Computerized Criminal History
C&D	Construction and Demolition Debris
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CERI	Center for Environmental Research Information
CFR	Code of Federal Regulations
CO	Consent Order
CRF	Combustion Research Facility
CROW	Contained Recovery of Oily Waste
CWA	Clean Water Act
DEC	New York State Department of Environmental Conservation

## ACRONYMS (continued)

DEE	New York State Department of Environmental Conservation, Division of Environmental Enforcement
DHSR	New York State Department of Environmental Conservation, Division of Hazardous Substance Regulation
DHWR	New York State Department of Environmental Conservation, Division of Hazardous Waste Remediation
DOE	United States Department of Energy
DOH	New York State Department of Health
DOL	New York State Department of Law
DOT	New York State Department of Transportation
DRE	Destruction and Removal Efficiency
DSW	New York State Department of Environmental Conservation, Division of Solid Waste
EAF	Environmental Assessment Form
ECL	New York State Environmental Conservation Law
EDDM	Experimental Debris Decontamination Module
EIS	Environmental Impact Statement
EMC	Environmental Management Council (County)
EPA	United States Environmental Protection Agency
EP Toxicity	Elutriate Procedure Toxicity
EQBA	Environmental Quality Bond Act, aka The Bond Act
ERDDA	Environmental Research and Development Act

## ACRONYMS (continued)

ESD	Electroacoustic Soil Decontamination
FIFRA	The Federal Insecticide, Fungicide and Rodenticide Act
FOIA	Freedom of Information Act
FSF	Federal Superfund
GAC	Granular Activated Carbon
GW	Ground Water
HSWA	Hazardous and Solid Waste Amendments
HWRF	Hazardous Waste Remedial Fund
HRS	Hazard Ranking System
IRM	Interim Remedial Measure
ISV	In-Situ Vitrification
LT3	Low Temperature Thermal Treatment
MIS	Mobile Incineration System
MW	Monitoring Well
MWTA	Medical Waste Tracking Act
NEPA	National Environmental Policy Act
NPDES	National Pollutant Discharge Elimination System
NPL	National Priorities List
NYCDOS	New York City Department of Sanitation
NYCRR	The Official Compilation of New York Codes, Rules & Regulations
ODA	Ocean Dumping Act

## **ACRONYMS (continued)**

OSWER	Office of Solid Waste and Emergency Response
PA	An EPA Preliminary Assessment
PAHs	Polycyclic Aromatic Hydrocarbons
PCBs	Polychlorinated Biphenyls
PCDDs	Polychlorinated Dibenzodioxins
PCDFs	Polychlorinated Dibenzofurans
P/C/Is	Private/Commercial/Industrial Facilities
PCPs	Pentachlorophenols
PNAs	Polynuclear Aromatic Hydrocarbons
POTW	Publicly Owned Treatment Works
ppb	Parts Per Billion
ppm	Parts Per Million
ppt	Parts Per Trillion
PRAP	Proposed Remedial Action Plan
PRP	Potentially Responsible Party
PSA	Preliminary Site Assessment
QA/QC	Quality Assurance/Quality Control
RAMP	Remedial Action Management Plan
RCRA	Resources Conservation and Recovery Act
REM	Remedial
RI/FS	Remedial Investigation/Feasibility Study

## **ACRONYMS (continued)**

RQ	Reportable Quantity
SARA	Federal Superfund Amendment and Reauthorization Act
SDWA	Safe Drinking Water Act
SEQR	State Environmental Quality Review
SEQRA	State Environmental Quality Review Act
SI	An EPA Site Investigation
SITE	Superfund Innovative Technology Evaluation
SPDES	New York State Pollutant Discharge Elimination System
SSF	State Superfund
SSMB	State Superfund Management Board
STP	Sewage Treatment Plant
SW	Surface Water
SWMU	Solid Waste Management Unit
TCA	Trichloroethane
TCDF	Tetrachlorodibenzofuran
TCE	Tricholorethylene
TCL	Target Compound List
TEA	Triethylamine
TOSCA	Toxic Substances Control Act
TSD	Treatment, Storage or Disposal Facilities
TSDF	Hazardous Waste Treatment, Storage or Disposal Facility

## **ACRONYMS (continued)**

<b>UIC</b>	The Safe Drinking Water Act's Underground Injection Control Program
<b>USATHAMA</b>	United States Army Toxic and Hazardous Materials Agency
<b>USCA</b>	United State Codes Annotated
<b>USGS</b>	United States Geological Survey
<b>UST</b>	Underground Storage Tank
<b>UCS</b>	Unconfined Compressed Strengths
<b>VOCs</b>	Volatile Organic Compounds

## APPENDIX B

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