

# STATE OF NEW YORK

6353

2017-2018 Regular Sessions

## IN SENATE

May 11, 2017

Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the Long Island Pine Barrens maritime reserve

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 57-0107 of the environmental conservation law is  
2 amended by adding three new subdivisions 15, 16 and 17 to read as  
3 follows:

4 15. "All-terrain vehicle" shall have the meaning set forth in article  
5 forty-eight-B of the vehicle and traffic law.

6 16. "Disposal" means the abandonment, discharge, deposit, injection,  
7 dumping, spilling, leaking or placing of any solid waste, as defined in  
8 article twenty-seven of this chapter, upon the lands of the state or any  
9 public corporation.

10 17. Complete application" shall mean an application for a commission  
11 approval which is in a form approved by the commission and which is  
12 determined by the commission to be complete for the purpose of commenc-  
13 ing review of the application but which may need to be supplemented  
14 during the course of its review as to matters contained in the applica-  
15 tion necessary for the commission to make its findings and decisions  
16 required by law. A complete application shall include such draft envi-  
17 ronmental impact statement as may be required pursuant to article eight  
18 of this chapter.

19 § 2. Subdivision 6 of section 57-0119 of the environmental conserva-  
20 tion law, as added by chapter 262 of the laws of 1993, paragraphs (c),  
21 (g), (i) and (k) as amended by chapter 289 of the laws of 2006 and para-  
22 graphs (k-1) and (k-2) as added by chapter 263 of the laws of 1993, is  
23 amended to read as follows:

24 6. The commission shall have the power:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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(a) To enforce the provisions of this title and to enforce other provisions of this article as provided for herein; to prepare, adopt, enforce and ensure implementation of the comprehensive land use plan, with the advice of the advisory committee and to conduct investigations and hold hearings and compel the attendance of witnesses and the production of accounts, books, documents, and nondocumentary evidence by the issuance of a subpoena;

(b) To sue and be sued;

(c) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this title;

(d) To establish and maintain such facilities as may be necessary for the transacting of its business;

(e) To appoint an executive officer, officers, agents, employees, and prescribe their duties and qualifications and fix their compensation;

(f) To utilize to the extent feasible the staff and facilities of existing state and county agencies, pursuant to an agreement to be made by the state or by the county of Suffolk;

(g) To undertake scientific research and activities to preserve, manage and restore ecological, hydrological, cultural and historical resources within the Central Pine Barrens;

(h) To hold hearings in the exercise of its powers, functions and duties provided for by this title;

~~[(h)]~~ (i) To contract for professional and technical assistance and advice, scientific research and activities to preserve, manage and restore ecological, hydrological, cultural and historical resources within the Central Pine Barrens;

~~[(i)]~~ (j) To contract for and to accept any assistance, including but not limited to gifts, grants or loans of funds or of property from the federal government or any agency or instrumentality thereof, or from any agency or instrumentality of the state, or accept and receive revenue derived from fees or fines or penalties for violations incurred pursuant to this title and the comprehensive land use plan, for deposit into the Central Pine Barrens environmental benefit fund, or from any other public or private source and to comply, subject to the provisions of this title, with the terms and conditions thereof;

~~[(j)]~~ (k) To establish regulations, values, and standards which may include a system of bonuses and incentives in order to purchase, sell, hold and trade development rights as defined in paragraph a of subdivision one of section two hundred sixty-one-a of the town law; such transfers may cross municipal and special district boundaries;

~~[(k)]~~ (l) To adopt, amend and repeal, after public hearing (except in the case of rules and regulations that relate to the organization or internal management of the agency), such rules and regulations, consistent with this title, as it deems necessary to administer this title, and to do any and all things necessary or appropriate to carry out the purposes and policies of this title and exercise powers granted by law;

~~[(k-1)]~~ (l-1) To purchase the maximum insurance, practicable and affordable from revenues in the Pine Barrens fund pursuant to former section ninety-seven-o of the state finance law, from any duly authorized insurer in this state, against any liability subject to indemnity pursuant to subdivision six of section 57-0123 of this chapter;

~~[(k-2)]~~ (l-2) To acquire, hold lands and interest in land, and utilize the power of eminent domain within available funds in the Pine Barrens fund pursuant to former section ninety-seven-o of the state finance law or made available by local, county, or state government;

1    ~~(l)~~ (m) To provide scientific and technical assistance or to make  
2 grants to the federal government or public corporations, municipalities,  
3 towns and the county for the preservation, management and restoration of  
4 ecological, hydrological, cultural and historic resources within the  
5 Central Pine Barrens and revisions of local master plans, or the rele-  
6 vant ordinances designed to bring such plans and ordinances into  
7 conformance with the comprehensive land use plan prepared and adopted by  
8 the commission. The commission may make such grants from any funds which  
9 may be appropriated or otherwise made available to it for such purpose;

10    ~~(m)~~ (n) To establish and maintain an education and outreach program  
11 relating to the commission's work;

12    ~~(n)~~ (o) To convene conferences, seminars, meetings, technical  
13 sessions on its own or in coordination with federal, state, county, town  
14 or private organizations as deemed necessary relative to its responsi-  
15 bilities;

16    ~~(o)~~ (p) To report periodically to the governor and the legislature  
17 on the conduct of its activities not less than once a year, furnishing a  
18 copy of each such report to the legislative bodies of Suffolk county and  
19 the towns and villages in whole or in part within the Central Pine  
20 Barrens area;

21    ~~(p)~~ (q) To assist local, county and state government in prioritiza-  
22 tion and negotiation with private landowners whose property is  
23 restricted by the land use plan, to evaluate the impact of any  
24 restrictions and develop a package of benefits; and

25    ~~(q)~~ (r) To have and exercise such other incidental and usual powers  
26 as are necessary and appropriate to carry out its duties.

27    § 3. Subdivisions 9 and 10 of section 57-0121 of the environmental  
28 conservation law, subdivision 9 as amended by chapter 448 of the laws of  
29 2005 and subdivision 10 as amended by chapter 289 of the laws of 2006,  
30 are amended to read as follows:

31    9. Within three months of the effective date of this section, the  
32 commission shall publish interim goals and standards for development and  
33 for hardship before the land use plan is implemented in compatible  
34 growth areas identified in the map. The commission may vary the proce-  
35 dures and time periods for compliance with article eight of this chapter  
36 as necessary and appropriate to comply with the three month deadline of  
37 this subdivision. Upon such publication, development may proceed in such  
38 compatible growth areas subject to existing laws, regulations and  
39 approval procedures and subject to the review and approval of the  
40 commission. Any person, the state or a public corporation applying for  
41 development in such compatible growth areas who has received all neces-  
42 sary local and state approvals may petition the commission for approval  
43 of the development. Within thirty days of ~~an~~ a complete application  
44 being received, the commission shall provide the applicant and any other  
45 interested party an opportunity to be heard. Notice of such hearing  
46 shall be published in a newspaper having a general circulation in the  
47 Central Pine Barrens area, and notice of such hearing shall also be  
48 given by registered mail to the chief administrative officer of each  
49 town and village within whose boundary any proposed development is  
50 located. If the proposed development is consistent with the commission's  
51 interim goals and standards, the commission shall approve the develop-  
52 ment and may include conditions for approval. If the applicant seeks an  
53 exemption based upon a demonstration of hardship, the commission may  
54 approve development in the compatible growth area upon the finding that  
55 such interim goals and standards caused an unnecessary hardship. In  
56 making such finding the commission shall consider the criteria for a use

1 variance pursuant to section two hundred sixty-seven-b of the town law.  
2 The commission must make a decision within one hundred twenty days of  
3 receipt of a complete application. If the commission fails to make a  
4 decision within one hundred twenty days, the development shall be deemed  
5 to be approved by the commission, unless extended by mutual agreement of  
6 the applicant and commission.

7 10. Any person, the state or a public corporation upon a showing of  
8 hardship caused by the provisions of subdivision eight of this section  
9 on development in the core preservation area, may apply to the commis-  
10 sion for a permit exempting such applicant from such subdivision eight  
11 in connection with any proposed development in the core preservation  
12 area. Such **complete** application for an exemption pursuant to the demon-  
13 stration of hardship within the core preservation area shall be approved  
14 only if the person satisfies the following conditions and extraordinary  
15 hardship or compelling public need is determined to have been estab-  
16 lished under the following standards or for development by the state or  
17 a public corporation or proposed for land owned by the state or a public  
18 corporation compelling public need is determined to have been estab-  
19 lished under the following standards:

20 (a) The particular physical surroundings, shape or topographical  
21 conditions of the specific property involved would result in an extraor-  
22 dinary hardship, as distinguished from a mere inconvenience, if the  
23 provisions of this act are literally enforced. A person shall be deemed  
24 to have established the existence of extraordinary hardship only if he  
25 or she demonstrates, based on specific facts, that the subject property  
26 does not have any beneficial use if used for its present use or devel-  
27 oped as authorized by the provisions of this title, and that this  
28 inability to have a beneficial use results from unique circumstances  
29 peculiar to the subject property which:

30 (i) Do not apply to or affect other property in the immediate vicini-  
31 ty;

32 (ii) Relate to or arise out of the characteristics of the subject  
33 property rather than the personal situation of the applicant; or

34 (iii) Are not the result of any action or inaction by the applicant or  
35 the owner or his or her predecessors in title including any transfer of  
36 contiguous lands which were in common ownership on or after June 1,  
37 1993.

38 (b) A person, the state or a public corporation shall be deemed to  
39 have established compelling public need if the applicant demonstrates,  
40 based on specific facts, one of the following:

41 (i) The proposed development will serve an essential health or safety  
42 need of the municipalities in the Central Pine Barrens such that the  
43 public health and safety require the requested waiver, that the public  
44 benefits from the proposed use are of a character that overrides the  
45 importance of the protection of the core preservation area as estab-  
46 lished in this title, that the proposed use is required to serve exist-  
47 ing needs of the residents, and that no feasible alternatives exist  
48 outside the core preservation area to meet the established public need  
49 and that no better alternatives exist within the county; or

50 (ii) The proposed development constitutes an adaptive reuse of an  
51 historic resource designated by the commission and said reuse is the  
52 minimum relief necessary to ensure the integrity and continued  
53 protection of the designated historic resource and further that the  
54 designated historic resource's integrity and continued protection cannot  
55 be maintained without the granting of a permit.

(c) ~~[An]~~ A complete application for a permit in the core preservation area shall be approved only if it is determined that the following additional standards also are met:

(i) The granting of the permit will not be materially detrimental or injurious to other property or improvements in the area in which the subject property is located, increase the danger of fire, endanger public safety or result in substantial impairment of the resources of the core preservation area;

(ii) The waiver will not be inconsistent with the purposes, objectives or the general spirit and intent of this title; or

(iii) The waiver is the minimum relief necessary to relieve the extraordinary hardship, which may include the granting of a residential development right to other lands in the compatible growth area that may be transferred or clustered to those lands to satisfy the compelling public need.

Any waiver or exemption granted under the provisions of this part shall only be considered an exemption or waiver of the particular standard of this title which the commission waived. It shall not constitute an approval of the entire development proposal. Nor shall it constitute a waiver from any requirements contained within any local, county or state law or ordinance.

Within thirty days of the complete application being received, the commission shall provide the applicant and any other interested party an opportunity to be heard. Notice of any public hearing conducted in connection with ~~[an]~~ a complete application for such a permit shall be published in a newspaper of general circulation in the Central Pine Barrens area. If the proposed development is not contrary to the policy or any provision of this title and meets the standards of extraordinary hardship or public need herein, and the commission so finds, it may issue a permit allowing the development or such development subject to appropriate conditions or modifications to occur, provided that permission may be revoked by the commission if its terms are violated, and provided further that any such hardship permit issued by the commission shall be in addition to, and not in lieu of, such permit or permits as may be required by any state agency or municipality within whose boundary such development is located. The time within which the commission must decide a complete core preservation area hardship application for which a negative declaration has been made by the commission pursuant to article eight of this chapter is one hundred twenty days from receipt of such application. The time within which the commission must decide a complete core preservation area hardship application for which a positive declaration has been made by the commission pursuant to article eight of this chapter is sixty days from issuance of a findings statement by the commission pursuant to article eight of this chapter. If the commission fails to make a decision within the aforesaid time periods, the development shall be deemed to be approved by the commission, unless extended by mutual agreement of the applicant and commission.

Processing and review of an application may be suspended by written notice to the applicant if an enforcement action has been or is commenced against the applicant, pursuant to section 57-0136 of this title, for alleged violations of this article at the facility or site that is the subject of the application.

§ 4. Subdivisions 2 and 3 of section 57-0123 of the environmental conservation law, subdivision 2 as amended by chapter 145 of the laws of 1996, paragraph (a) of subdivision 2 as amended by chapter 448 of the

1 laws of 2005 and subdivision 3 as amended by chapter 289 of the laws of  
2 2006, are amended to read as follows:

3 2. (a) The commission shall have jurisdiction to review and approve  
4 all proposed development in critical resource areas and developments of  
5 regional significance as identified in the land use plan and proposed  
6 developments found by the commission after petition by a commissioner to  
7 have significant adverse impact on the land use plan. Any commissioner  
8 may petition the commission to assert review jurisdiction over a  
9 proposed development outside of a critical resource area or which is  
10 other than a project of regional significance which has a significant  
11 adverse impact on the goals of the land use plan. If the commissioner by  
12 majority vote asserts jurisdiction, such project or action shall be  
13 subject to review by the commission. For the purposes of review and  
14 identification of projects coming under the jurisdiction of the commis-  
15 sion by virtue of critical resource area or area of regional impact or  
16 at the request of any commission member, the commission shall designate  
17 the responsible planning entity or staff for the purposes of advising  
18 the commission with respect to such applications or projects. To the  
19 fullest extent possible, the commission shall consolidate and coordinate  
20 its review with the appropriate local government. A person, the state or  
21 a public corporation proposing development in a critical resource area  
22 or development of regional significance shall apply to the commission  
23 for approval of the development. ~~[Applications]~~ Complete applications  
24 shall be made to the commission on forms and in such manner as the land  
25 use plan and commission shall designate.

26 (b) The commission must make a decision on a complete application  
27 within one hundred twenty days of the receipt of a complete application.  
28 If the commission fails to make a decision within one hundred twenty  
29 days, the development shall be deemed to be approved by the commission,  
30 unless extended by mutual agreement of the applicant and the commission.  
31 The commission must make a decision within one hundred twenty days of  
32 ~~[asserting]~~ receipt of a complete application for a project over which  
33 the commission has asserted jurisdiction ~~[over a project]~~ that is before  
34 the commission based on the petition by a commissioner. If the commis-  
35 sion fails to make a decision within one hundred twenty days of ~~[the~~  
36 ~~date of asserting jurisdiction]~~ receipt of a complete application for a  
37 project over which the commission has asserted, the development shall be  
38 deemed to be approved by the commission, unless extended by mutual  
39 agreement of the applicant and the commission.

40 (c) Processing and review of an application may be suspended by writ-  
41 ten notice to the applicant if an enforcement action has been or is  
42 commenced against the applicant for alleged violations, pursuant to  
43 section 57-0136 of this title, at the facility or site that is the  
44 subject of the application.

45 3. (a) Subsequent to the adoption of the land use plan, the provisions  
46 of any other law, ordinance, rule or regulation to the contrary notwith-  
47 standing, no application for development within the Central Pine Barrens  
48 area shall be approved by any municipality or county or agency thereof  
49 or the commission, and no state approval, certificate, license, consent,  
50 permit, or financial assistance for the construction of any structure or  
51 the disturbance of any land within such area shall be granted, unless  
52 such approval or grant conforms to the provisions of such land use plan;  
53 provided, however, that the commission by majority vote is hereby  
54 authorized to waive strict compliance with such plan or with any element  
55 or standard contained therein, for ~~[an]~~ a complete application for  
56 development of any person, upon finding that such waiver is necessary to

1 alleviate hardship for proposed development in the core preservation  
2 area according to the conditions and finding of extraordinary hardship  
3 or compelling public need pursuant to subdivision ten of section 57-0121  
4 of this title, or for an application for development by the state or  
5 public corporation or proposed for land owned by the state or public  
6 corporation finding that such waiver is necessary to alleviate hardship  
7 for proposed development in the core preservation area according to the  
8 conditions and finding of compelling public need pursuant to subdivision  
9 ten of section 57-0121 of this title, and every application is consist-  
10 ent with the purposes and provisions of this article and would not  
11 result in substantial impairment of the resources of the Central Pine  
12 Barrens area.

13 (b) The commission by majority vote is also authorized to waive strict  
14 compliance with such plan or with any element or standard contained  
15 therein, upon finding that such waiver is necessary to alleviate hard-  
16 ship for development proposed by any person, the state or a public  
17 corporation in the compatible growth area according to the conditions  
18 and findings of hardship pursuant to subdivision nine of section 57-0121  
19 of this title, is consistent with the purposes and provisions of this  
20 title and would not result in substantial impairment of the resources of  
21 the Central Pine Barrens area.

22 (c) The commission must make a decision on a complete application  
23 within the time periods established pursuant to subdivision ten of  
24 section 57-0121 of this title. If the commission fails to make a deci-  
25 sion within the aforesaid time periods, the development shall be deemed  
26 to be approved by the commission, unless extended by mutual agreement of  
27 the applicant and the commission. The aforesaid time period and the  
28 processing and review of an application shall be suspended by the  
29 commission with notice to the applicant where a proceeding pursuant to  
30 section 57-0136 of this title is pending against the applicant with  
31 respect to the property at issue or otherwise arising out of the owner-  
32 ship or use of such property.

33 § 5. The environmental conservation law is amended by adding a new  
34 section 57-0132 to read as follows:

35 § 57-0132. Prohibition of specific activities.

36 1. The legislature finds that in the Central Pine Barrens certain  
37 activities have been and continue to be conducted which are not consist-  
38 ent with the spirit and intent of this article, in particular the stated  
39 purpose of protecting and preserving the hydrologic and ecologic integ-  
40 riety of the Central Pine Barrens. The legislature also finds that these  
41 activities, consisting of the unlawful operation of all-terrain vehicles  
42 and off-road vehicles by the general public on public lands located  
43 within the Central Pine Barrens; the unlawful disposal of solid waste on  
44 the lands of the state or public corporations; the unlawful cutting of  
45 existing vegetation on public lands in the Central Pine Barrens; the  
46 unlawful excavation and grading of public lands in the Central Pine  
47 Barrens and vandalism on public lands in the Central Pine Barrens, have  
48 caused and are continuing to cause harm to the important and fragile  
49 ecosystem found therein. These specifically enumerated activities have,  
50 within the Central Pine Barrens, destroyed or greatly damaged signif-  
51 icant forests, grasslands, wetlands and other ecological communities and  
52 habitats of wildlife, particularly those which are rare or otherwise  
53 endangered or threatened; have caused significant erosion and loss of  
54 important natural soils; have adversely impacted the natural, scenic  
55 beauty of the area; have displaced wildlife; have caused environmental  
56 contamination; have created unsafe and dangerous conditions for lawful

1 users and adjoining property owners and have adversely affected the  
2 quality of life of area residents.

3 2. Therefore, the following specific activities are prohibited on  
4 public lands within the Central Pine Barrens:

5 a. the unlawful and unauthorized operation of all-terrain vehicles and  
6 off-road vehicles;

7 b. the unlawful and unauthorized dumping and deposition of solid  
8 waste, trash, rubbish, debris and other discarded materials;

9 c. the unlawful cutting and destruction of existing vegetation;

10 d. unlawful excavation and grading; and

11 e. vandalism.

12 3. The provisions of this section shall not be applicable to the  
13 activities of any federal or state agency or entity, the commission, any  
14 public authority, public corporation or public utility and any munici-  
15 pality.

16 § 6. Section 57-0136 of the environmental conservation law, as amended  
17 by chapter 289 of the laws of 2006, is amended to read as follows:

18 § 57-0136. Penalties and enforcement.

19 1. Enforcement; designated employees to have certain powers. Such  
20 employees as may be designated by the commission shall be authorized to  
21 issue uniform appearance tickets, simplified traffic informations,  
22 simplified parks informations, simplified environmental conservation  
23 informations, notices of violation and perform related enforcement  
24 duties, when acting pursuant to their special duties.

25 2. General law enforcement authority. Every police officer, every  
26 peace officer, every municipal enforcement officer and any employee of  
27 the commission as may be designated by the commission, shall enforce the  
28 provisions of a chapter of the laws of two thousand seventeen that added  
29 this subdivision, and the rules, and regulations and orders enacted or  
30 promulgated thereunder. Such officers or commission employees shall be  
31 authorized to issue an appearance ticket or, in lieu thereof, a uniform  
32 appearance ticket or, in lieu thereof, a uniform appearance ticket and  
33 simplified information as provided in subdivision three of section  
34 57-0136, for any violation of this chapter or rule, regulation or order  
35 adopted thereunder.

36 3. Uniform appearance ticket and simplified information. (a) The  
37 commission shall prescribe the form of an appearance ticket and simpli-  
38 fied information for all cases involving a violation of any provision of  
39 a chapter of the laws of two thousand seventeen that added this subdivi-  
40 sion, or of any rule, regulation or order adopted or promulgated there-  
41 under, or of any class or category of such cases, and to establish  
42 procedures for proper administrative controls over the disposition ther-  
43 eof.

44 (b) The chief executive officer of each local police force and peace  
45 officer force including county, town, city and village police depart-  
46 ments, sheriffs and the superintendent of state police shall prepare or  
47 cause to be prepared such records and reports as may be prescribed here-  
48 under.

49 (c) The commission shall have the power to adopt such rules and regu-  
50 lations as may be deemed necessary to accomplish the purposes and  
51 enforce the provisions of this section including requirements for  
52 reporting by trial courts having jurisdiction over such offenses.

53 (d) Any person who disposes of any uniform appearance ticket and  
54 simplified information in any other manner than that prescribed by law,  
55 rule or regulation shall be guilty of a class B misdemeanor.

(e) The provisions of this section shall not apply to any offense for which a uniform summons and complaint is prescribed by the commissioner of motor vehicles pursuant to section two hundred seven of the vehicle and traffic law or by the commissioner of parks, recreation and historic preservation pursuant to article twenty-seven of the parks, recreation and historic preservation law.

4. Violations. (a) All of the rights and remedies provided for in this section are in addition to all of the rights and remedies available to the villages and towns located within the "Central Pine Barrens Area" as specifically defined in subdivision ten of section 57-0107 of this title. All of the rights and remedies provided for in this section are in addition to all of the rights and remedies available to the attorney general as provided for in state law.

(b) With respect to any land use conduct within the Central Pine Barrens Area that violates any provision of an applicable village or town law, the responsibility for enforcement of such violation shall lie with the applicable village or town in the first instance as provided for in the laws of the respective town or village. The applicable village or town shall provide written notice to the commission of all such enforcement efforts. In the event the applicable village or town does not commence an enforcement action within sixty days from the receipt of a written notice to the applicable village or town of any land use conduct within the Central Pine Barrens Area that may violate any provision of an applicable village or town law, the commission, or the attorney general at the request of the commission or upon his or her own initiative, may institute enforcement action for such violation as set forth in subdivisions [~~two, three and four~~] five, six and eight of this section. In such event, any penalties or fines collected shall be deposited with the applicable village or town, if the applicable village or town commences an enforcement action within the timeframe allotted herein, to be maintained in a segregated account to be used exclusively for the acquisition of real property or transferable development rights interests or capital projects associated with enhancement and/or restoration of the natural resources and ecosystems located within the Central Pine Barrens Area. If the applicable village or town fails to commence an enforcement action within the timeframe allotted herein and enforcement action is instead commenced by the commission, any penalties or fines collected shall be deposited into the separate, non-lapsing environmental benefit fund of the commission.

(c) With regard to any violation of this title, the land use plan adopted by the commission, any regulation promulgated by the commission, or any order, determination or permit condition issued by the commission, there shall be independent jurisdiction among the village or town in which such violation occurred or is occurring to investigate and prosecute such violation as set forth in subdivisions [~~two, three and four~~] five, six and eight of this section. The commission, the Suffolk county district attorney or the attorney general, at the request of the commission, or upon the Suffolk county district attorney's or the attorney general's own initiative shall also have independent jurisdiction to investigate and prosecute such violation as set forth in subdivisions [~~two, three and four~~] five, six and eight of this section.

The party initiating such a prosecution shall consult with the other governmental entities named in this section before initiating such an action, except in a case involving a threat of irreparable harm or imminent violation or repeated violations of this title, the land use plan adopted by the commission, any regulation promulgated by the commission,

1 or any order, determination or permit condition issued by the commis-  
2 sion.

3 In such event, any penalties or fines collected as a result of the  
4 applicable village or town prosecution shall be deposited with the  
5 applicable village or town to be maintained in a segregated account to  
6 be used exclusively for the acquisition of real property or transferable  
7 development rights interests or capital projects associated with  
8 enhancement and/or restoration of the natural resources and ecosystems  
9 located within the Central Pine Barrens Area. Any penalties or fines  
10 collected as a result of the commission prosecution shall be deposited  
11 into the separate, non-lapsing environmental benefit fund of the commis-  
12 sion.

13 (d) With regard to any land use conduct within the Central Pine  
14 Barrens Area that is a violation of the applicable village or town law  
15 in addition to being a violation of the specific requirements of this  
16 title, the land use plan adopted by the commission, or the terms or  
17 conditions of any order, permit or determination issued by the commis-  
18 sion, the commission, the Suffolk county district attorney or the attor-  
19 ney general at the request of the village or town, may jointly institute  
20 with the village and town an enforcement action as set forth in subdivi-  
21 sions [~~two, three and four~~] five, six and eight of this section. In such  
22 event, any penalties or fines collected shall be deposited with the  
23 applicable village or town to be maintained in a segregated account to  
24 be used exclusively for the acquisition of real property or transferable  
25 development rights interests or capital projects associated with  
26 enhancement and/or restoration of the natural resources and ecosystems  
27 located within the Central Pine Barrens Area.

28 [~~2-~~] 5. Civil penalties. (a) For a violation that takes place in the  
29 "core preservation area" as defined in subdivision eleven of section  
30 57-0107 of this title, any person who violates any provision of this  
31 title, the land use plan adopted by the commission, any regulation  
32 promulgated by the commission, or the terms or conditions of any order,  
33 permit, or determination issued by the commission pursuant to this title  
34 shall be liable for a civil penalty of not more than twenty-five thou-  
35 sand dollars for each violation and an additional civil penalty of not  
36 more than one thousand dollars for each day that such violation contin-  
37 ues.

38 (b) For a violation that takes place in the "compatible growth area"  
39 as defined in subdivision twelve of section 57-0107 of this title, any  
40 person who violates any provision of this title, the land use plan  
41 adopted by the commission, any regulation promulgated by the commission,  
42 or the terms or conditions of any order, permit, or determination issued  
43 by the commission pursuant to this title shall be liable for a civil  
44 penalty of not more than ten thousand dollars for each violation and an  
45 additional civil penalty of not more than one thousand dollars for each  
46 day that such violation continues.

47 [~~3-~~] 6. Criminal penalties. (a) For a violation that takes place in  
48 the "core preservation area" as defined in subdivision eleven of section  
49 57-0107 of this title, any person who willfully or intentionally  
50 violates any provision of this title, the land use plan adopted by the  
51 commission, any regulation promulgated by the commission, or the terms  
52 or conditions of any order, permit, or determination issued by the  
53 commission pursuant to this title shall be guilty of a misdemeanor  
54 punishable by a fine of not more than twenty-five thousand dollars for  
55 each violation and an additional fine of not more than one thousand  
56 dollars for each day that such violation continues.

(b) For a violation that takes place in the "compatible growth area" as defined in subdivision twelve of section 57-0107 of this title, any person who willfully or intentionally violates any provision of this title, the land use plan adopted by the commission, any regulation promulgated by the commission, or the terms or conditions of any order, permit, or determination issued by the commission pursuant to this title shall be guilty of a misdemeanor punishable by a fine of not more than ten thousand dollars for each violation and an additional fine of not more than one thousand dollars for each day that such violation continues.

7. Additional remedies regarding all-terrain vehicles and off-road vehicles. (a) In addition to the penalties set forth in subdivisions five and six of this section, a police officer or peace officer may immediately impound any all-terrain vehicles or off-road vehicles operated in violation of subdivision two of section 57-0132 of this title. Such impounded all-terrain vehicles or off-road vehicles shall be processed consistent with the provisions of section five hundred eleven-b of the vehicle and traffic law; provided, however, that a surcharge of five hundred dollars shall be paid by the owner of such vehicle, and monies therefrom shall be deposited into the separate, non-lapsing environmental benefit fund of the commission.

(b) Nothing in this section shall be deemed to limit the authority of any county, city, town or village to adopt or amend any local law or ordinance which imposes stricter restrictions and conditions on the operation of all-terrain vehicles or off-road vehicles than are provided or authorized by this section, so long as such local law or ordinance is consistent with the authority to protect the order, conduct, health, safety and general welfare of persons or property. Nothing in this section shall be deemed to alter or invalidate any local law or ordinance in effect on the effective date of this section.

~~[4-]~~ 8. Additional remedies. Alternatively, or in addition to an action seeking civil penalties or criminal fines or imprisonment as provided by subdivisions two and three of this section, the commission, the Suffolk county district attorney or the attorney general may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this title, the land use plan adopted by the commission, any regulation promulgated by the commission, or the terms or conditions of any order, permit, or determination issued by the commission pursuant to this title. The court in which the action or proceeding is brought may order the person responsible for the violation to take such affirmative measures as are necessary to correct or remediate the violation. Such an action or proceeding may also seek restitution for any such violation.

9. Disposition of fees and penalties. (a) Unless otherwise provided in this title, not later than the tenth day of each month, all fines, penalties and forfeitures collected for violations of this title or rules, regulations, local laws or ordinances adopted thereunder under judgment of any town or village court, shall be paid over by such court to the applicable fund as described in subdivisions four and seven of this section, with a statement accompanying the same, setting forth the action or proceeding in which such monies were collected, the name and residence of the defendant, the nature of the offense, and the fines and penalties imposed.

(b) All fines and penalties collected for violations of this section by courts operating pursuant to section thirty-nine of the judiciary law shall be directed by such court to the applicable fund as described in

1 subdivisions four and seven of this section, with a statement accompany-  
2 ing the same, setting forth the action or proceeding in which such  
3 monies were collected, the name and residence of the defendant, the  
4 nature of the offense, and the fines and penalties imposed, on a monthly  
5 basis no later than ten days after the last day of each month.

6 § 7. This act shall take effect on the sixtieth day after it shall  
7 have become a law; provided, however, that effective immediately, the  
8 addition, amendment and/or repeal of any rule or regulation necessary  
9 for the implementation of this act on its effective date are authorized  
10 to be made and completed on or before such date.