§ 11-0306. The Hudson River estuary management program.

1. There is established a Hudson River estuarine district which shall include the tidal waters of the Hudson River, including the tidal waters of its tributaries and wetlands from the federal lock and dam at Troy to the Verrazzano-Narrows.

2. The department shall establish a Hudson River estuary management program for the Hudson River estuarine district and associated shorelands, with consideration to the remainder of the Hudson River, New York bight, and the waters around Long Island only as they impact the Hudson River estuary, in order to protect, preserve and, where possible, restore and enhance the Hudson River estuarine district.

3. The commissioner shall appoint a Hudson River estuary management advisory committee with whom he or she shall consult on regulatory, policy and other matters affecting the management, protection and use of the Hudson River estuarine district and on the formulation of a Hudson River estuary management program. Such committee shall consist of not less than eleven members who represent interests directly involved in the Hudson River estuarine district and shall include representatives of commercial fishing, sportsmen, research, conservation, and recreation. For the purpose of immediate implementation of this section, the committee shall consist of the current members of the Hudson River fishery advisory committee.

4. The commissioner shall maintain in the department the position of Hudson River estuary coordinator to manage the Hudson River estuary management program and to assist the commissioner and the advisory committee in its development and implementation.

5. There is established a Hudson River estuarine sanctuary for the purpose of protecting areas of special ecological significance within the Hudson River estuarine district and associated shorelands. The estuarine sanctuary shall be managed as a long-term estuarine field laboratory for research and education concerning the Hudson River ecosystem. The estuarine sanctuary shall be composed initially of the

four sites now within the Hudson River national estuarine research reserve (HRNERR). The department shall adopt the Hudson River national estuarine research reserve program as a program of the department for the purpose of operating the estuarine sanctuary. The sanctuary shall be managed by the department in cooperation with the Hudson River estuary management advisory committee and the commissioner shall have the authority to designate additional sites for inclusion within the estuarine sanctuary. The estuarine sanctuary shall be open to those activities that are compatible with the primary purposes and management goals of the estuarine sanctuary and its individual sites.

6. The department, in cooperation with the Hudson River estuary management advisory committee, shall report to the chairpersons of the assembly committee on environmental conservation and the senate committee on environmental conservation on or before March first, nineteen hundred eighty-eight with an estuary management strategy for the development of a continuing fifteen-year estuary management program for the preservation, protection, restoration and enhancement of the Hudson River estuarine district and associated shorelands including but not limited to its natural resources, its fish and wildlife and the habitats within it. The estuary management strategy shall include but not be limited to the following:

a. A discussion of how the Hudson River estuary functions and the relative role of different species and an explanation of the role of the Hudson River estuary as a distinct ecosystem, as a habitat for fish and wildlife, as a commercial fishery and as a recreational resource.

b. Identification of areas of special ecological significance within the estuarine district and associated shoreland including but not limited to spawning, nursery, wintering, feeding and foraging habitat for marine, anadromous, catadromous, riverine, and freshwater species and a description of the annual dynamics of such habitats including the geochemical, thermodynamic, biological, hydrodynamic and hydrological states and mechanisms critical to habitat maintenance.

c. A plan for the development and operation of the Hudson River

estuarine sanctuary which shall include criteria for the identifcation of additional areas of special ecological significance and for additions to the Hudson River estuarine sanctuary and a program of education and research which shall be consistent with the purposes of subdivision five of this section.

d. A status report on the populations and relative abundance of species that have potential or existing recreational or commercial value or that play a key role in the functioning of the estuary and on the diversity of species in the estuarine district, including a plan for maintaining an accurate evaluation of populations and relative abundance and diversity on an annual basis.

e. Evaluation of the impact of the uses of water on the Hudson River estuarine district including present and future demands for water and their impact on the balance of fresh and salt water in the estuary and the role of the location of the salt front in the estuary.

f. Identification of areas of potential ecological significance which may require rehabilitation.

g. A status report on the levels of toxicants in and their effects on important estuarine indicator species and for species that have potential or existing recreational or commercial value.

h. Identification of the anthropogenic activities and the conservation and management problems that pose an existing or potential threat to the resources and the functioning of the estuary.

i. An inventory of ownership and tenancy of underwater lands in the estuarine district.

j. Recommendations for developing the economic potential of the Hudson River fishery and maintaining its traditional commercial fishery.

k. Recommendations for implementation of a fifteen-year estuary management program including a list of tasks that must be accomplished

to implement the purposes stated in this subdivision and address the findings and implement the recommendations of the estuary management strategy.

l. Evaluation of the existing resources and authority of the department to implement the estuary management program including research, information and data needs and legislative, administrative and regulatory recommendations and the potential role of private sources and institutions.

7. On or before January first, nineteen hundred eighty-nine, the commissioner shall present the department's Hudson River estuary management program at a public hearing. This public hearing shall be advertised in official newspapers in each county along the Hudson River corridor from the city of New York to Albany and Rensselaer counties. The program and public comments regarding it shall be included in a report on the program to be filed with the chairperson of the assembly environmental conservation committee and the chairperson of the senate committee on environmental conservation on or before March first, nineteen hundred eighty-nine.

8. On or before the first day of March of each year, commencing on March first, nineteen hundred ninety, the commissioner shall prepare a report detailing the progress of the estuary management program including but not limited to consideration of those matters listed in subdivision six of this section as well as any planned or anticipated regulatory or policy changes which may affect the estuarine district. The commissioner shall present the department's annual report at a special public meeting for the purpose of public review and to hear public comment on the annual report. The report shall be filed with the chairpersons of the assembly committee on environmental conservation and the senate committee on conservation and recreation.

9. The commissioner shall consult with the advisory committee regularly and in a timely fashion in the preparation of the estuary management strategy, the estuary management program and his or her yearly report to the legislature regarding any planned or anticipated

regulatory or policy changes which will affect the estuarine district. The commissioner shall include in his or her reports to the legislature the comments, recommendations and observations of the advisory committee and a discussion of the consulting role that was played by the advisory committee.

10. The advisory committee shall consult with department personnel on matters affecting the Hudson River estuary on a regular basis and report to the commissioner on or before the first day of December of each year on its activities and concerns.

11. Any agreement or negotiated settlement which existed between the commissioner and the previously existing Hudson River fishery advisory committee, whose membership will comprise the Hudson River estuary management advisory committee for the immediate purposes of implementing this section, shall be binding between the commissioner and the Hudson River estuary management advisory committee.