§ 11-0501. Fish and wildlife management practices cooperative program.

1. Purpose.

The cooperative program provided in this section is authorized for the purpose of obtaining on the privately owned or leased lands and waters of the state practices of fish and wildlife management which will preserve and develop the fish and wildlife resources of the state and improve access to them for recreational purposes by the people of the state.

2. Definitions.

a. "Fish and wildlife management" means management of either fish or wildlife, or both.

b. "Region" means a fish and wildlife management region established as provided in subdivision 3.

c. "Regional board" means a board constituted as provided in subdivision 4. "State board" means the board constituted as provided in subdivision 5.

d. "Cooperator" means a person with whom an agreement is made as provided in subdivision 9.

e. "Regional supervisor for natural resources" means the employee of the department bearing that title in each region.

f. "Department", "commissioner", "fish" and "wildlife" have the meanings stated in section 11-0103.

3. Fish and wildlife management regions.

The commissioner shall establish not to exceed fifteen fish and wildlife management regions of one or more counties each, which shall include all counties of the state not wholly included within a city.

4. Regional fish and wildlife management boards.

a. A regional fish and wildlife management board shall be appointed in each of the regions established under subdivision 3 of this section. Such regional board shall consist of three members from each county within the region which has appointed its members. In each county, one member shall be a member of or represent the board of supervisors or county legislative body, one member shall represent the landowners of the county and one member shall represent the sportsmen of the county. Such members from each county shall be appointed by the chairman of the board of supervisors of such county with the approval of the board of supervisors, except that in a county having a county president, a county executive or other chief executive officer, the chief executive officer shall appoint the members representing such county with the approval of the board of supervisors of such county. In a county having an elected legislative body the presiding officer shall appoint the members representing such county with the approval of the legislative body. If there is no presiding officer then the members representing such county shall be appointed by the legislative body as a whole. If a member of the board of supervisors or legislative body is not available to actively participate on the fish and wildlife management board, a representative shall be selected who is an elected county official or who is employed by the county government in a position having administrative or managerial authority. A landowner representative must actually reside upon rural lands within the county and actually be engaged in the operation of such lands for production of agricultural commodities or forest products. If a landowner representative with such qualifications is not available to actively participate on the fish and wildlife management board, a representative may be appointed who has been for at least five of the past ten years, before commencing his first term in any series of consecutive terms, engaged in such operation of rural lands, and who resides within the county he represents. If no landowner representative with either of these qualifications is available to actively participate on the fish and wildlife management board a representative may be appointed who is a resource manager engaged in such operations on rural lands, and designated by the

corporate owner of those lands to represent the landowner's agricultural or silvicultural interests. In the case of certain counties designated by the full state board with a scarcity of rural lands operated for production of agricultural commodities or forest products, the landowner representative shall own such rural lands in New York state, whether or not those properties lie within the county wherein he resides and represents. A sportsman representative must be a resident of the county. The said chief executive officer, presiding officer or legislative body shall receive and consider for appointment as the landowner representative, the recommendations made by the county farm bureau and Pomona grange, and for appointment as the sportsmen's representative, the recommendations made by the county units of organized sportsmen's groups, as well as considering the advantages of new representatives. The term of office of regional board members shall be two calendar years. A member shall be eligible for reappointment to successive terms of office where otherwise qualified. The term of the sportsmen's representative and the board of supervisors or county legislative body representative shall expire at the end of the odd numbered years; the term of the landowner representative shall expire at the end of the even numbered years. An alternate board of supervisors or county legislative body representative, sportsmen's representative and landowner representative may also be appointed, who shall be available to serve in the event of the temporary inability of the member sportsmen's representative or member landowner representative or board of supervisors or county legislative body representative to so function. A vacancy in membership of a regional board shall be filled in the same manner as the original appointment for the balance of the unexpired term during which the vacancy occurs; if a supervisor member or county legislative body member shall cease to be a supervisor or member of the legislative body before the expiration of his term as a member of the regional board, a successor shall be appointed for the unexpired balance of the term as a member of the regional board. The chairman of the Board of Directors of each soil and water conservation district and the chairman of each regional forest practice board within the fish and wildlife management region, or his or their representatives, shall be advisory members without vote.

b. Each regional board shall elect annually from its members a chairman, a vice chairman and a representative to the state board and may elect a secretary. The regional supervisor for natural resources may serve as secretary of the board if the board so requests, but in any event such supervisor's services shall always be available to the board.

5. State fish and wildlife management board.

a. There shall be a state fish and wildlife management board which shall consist of three representatives, one each representing landowners, sportsmen, and county legislative bodies, from each of the existing regional boards, and, as advisory members of the board without vote, the following persons during their term of office as such, or their representatives: the Commissioner of Environmental Conservation, the Commissioner of Agriculture and Markets, the Commissioner of Transportation, the Commissioner of Parks, Recreation and Historic Preservation, the dean of the New York State College of Agriculture and Life Sciences, the president of the State University of New York College of Environmental Science and Forestry, the chairman of the State Soil and Water Conservation Committee, the chairman of the State Forest Practice Board, the president of the New York Farm Bureau, the Master of the New York State Grange, the president of the New York State Conservation Council, and the president of the New York State Division of Izaak Walton League.

b. Each member other than the advisory members shall be elected by and from the membership of the respective regional boards for a term of one year from the day of his election, unless within such period he shall cease to be a member of the regional board which elected him, in which event he shall cease to be a member of the state board on the day he ceases to be a member of such regional board. Any vacancy in the state board other than in the office of an advisory member shall be filled for the balance of the unexpired term so vacated by election from its membership by the regional board in which such vacancy occurred.

c. The members of the state board shall elect one of their voting members to serve as chairman, and another as vice chairman, to serve in

the absence or inability to serve of the chairman. An officer of the department designated by the commissioner may act as secretary for the board if the board so elect; otherwise a secretary shall be elected from the membership.

d. The state board shall meet at the call of the chairman or secretary when and where necessary within the state.

6. Regional and state board members; expenses.

Regional and state board members, including advisory members, shall receive no salary, but their necessary traveling expenses when attending meetings of the regional or state boards shall be paid from moneys appropriated to the department for travel and shall be paid on vouchers certified by the chairman of the appropriate regional board or state board upon the audit of the comptroller in the manner provided by law.

7. Duties of regional boards.

a. Each regional board shall formulate a statement of fish and wildlife management practices appropriate for its region and submit it for approval to the state board and the commissioner. After such a statement of practices has been approved by the state board and the commissioner, the regional board shall formally adopt such statement of practices and encourage landowners, lessees and sportsmen within the region to adopt and carry out the practices approved.

b. A copy of each resolution so adopting a statement of practices shall be filed in the principal office of the department.

c. Any practices formulated in specific terms shall, unless otherwise expressly limited by the words "without variation", "without alternative", or the like, be interpreted as permitting such variations or alternatives as shall be accepted by the regional board as satisfying the purpose of the practices. But no such variation or alternatives shall be deemed to be a compliance with the practices for purposes of subdivisions 9 and 10 unless the approval of the regional board is

recorded in writing.

8. Duties of the state board.

a. The state board shall pass upon and approve or disapprove the fish and wildlife management practices formulated by the regional boards. The state board may, with the advice of the commissioner, and upon recommendations from the regional boards, formulate recommended uniform fish and wildlife management practices for similar ecological types within the various ecological regions of the state. Such uniform practices may thereafter be incorporated expressly or by reference in the statement of practices formulated by regional boards, but shall not be operative as practices of any region unless so incorporated.

b. The state board shall also have the following duties and powers:

(1) to recommend to the regional boards such policies and procedures for the carrying out of fish and wildlife management practices as it deems appropriate;

(2) to keep the several regional boards informed of the activities and experience of all other regional boards in the state and to facilitate an interchange of advice and experience between such regional boards and cooperation between them, and to provide advice and assistance in coordinating the programs of the several regional boards.

c. The state board may submit to the commissioner, recommendations with respect to matters delegated by statute to the department in any case where a statute or regulation of the department may affect the carrying out of fish and wildlife management practices under this section.

9. Cooperation agreements.

a. The commissioner shall have power, through his representative, to enter into an agreement in writing with an owner or lessee of rural lands or waters lying within a fish and wildlife management region or an interest in such lands or waters, or with two or more such owners or lessees who agree jointly and severally, for furnishing of services and

benefits as provided in subdivision 10, in exchange for and subject to the condition that such owner or lessee, or owners or lessees, adopt and carry out for a specified period of time, upon such premises or specified parts thereof, one or more of the fish and wildlife management practices adopted by the regional board.

b. The commissioner shall provide standard forms for such cooperation agreements.

c. The agreement shall state the period during which it shall be in force and may provide for renewal. It may also provide for termination before the expiration of such period, and for the conditions upon which and the manner in which any privilege of termination may be exercised.

d. Without limitation by paragraph c or by any term of the agreement pursuant to paragraph c the failure of a cooperator, or of any one of two or more cooperators who agree jointly and severally, to perform his agreement shall relieve the commissioner and the state from the obligation to furnish the services and benefits provided for in subdivision 10.

10. State assistance.

a. Upon the establishment of such region, the commissioner may, and upon organization of the regional board, the commissioner shall provide personnel from the department to assist the boards and the cooperators within the region.

b. The commissioner shall furnish to cooperators:

(1) technical services;

(2) trees and shrubs from any of the nurseries operated by the department without charge at the nursery, to the extent and subject to the conditions specified in the agreement with the cooperator;

(3) a subscription, without cost, to the New York State Conservationist magazine.

c. The commissioner may also furnish to cooperators such further

technical assistance, labor and materials, as may be required in compliance with practices approved by the region and authorized by order of the commissioner.

d. The commissioner may also furnish to premises covered by an agreement and to fish and wildlife upon such premises such protection by way of posting, patrol by environmental conservation officers or forest rangers, inspection or checking stations, fire patrols or other appropriate means, within the limitation of appropriations and of the manpower available as may be advisable in his judgment to protect fish and wildlife resources, provide for public safety and encourage the opening of private lands and waters to public hunting and fishing; but neither this subdivision nor any provision of any agreement pursuant to this section shall be deemed to constitute an undertaking by the state or the department on its behalf to furnish such posting, patrol or protection and neither such agreement nor any provision of the Fish and Wildlife Law shall be deemed to create a ground of liability of the state for damage to person or property caused by the failure or neglect of the state or its agents, officers or employees to furnish such posting, patrol or protection.

e. The agreement with the cooperator may provide for use by him for purposes compatible with its function in wildlife management, of any structure or facility created or maintained on his premises with funds of the department, or for furnishing to him the incidental products of any activity conducted on his premises for purposes of wildlife management.