§ 15-0503. Protection of water bodies; permit.

1. Except as provided in subdivision 3 of this section

a. No dam shall be erected, constructed, reconstructed or repaired by any person or local public corporation without a permit issued pursuant to subdivision 2 of this section. As used in this section, and section 15-0511 of this title, "dam" means any artificial barrier including any earthen barrier, together with its appurtenant works, which impounds or will impound waters, provided it has (1) a height equal to or greater than fifteen feet or (2) a maximum impoundment capacity equal to or greater than three million gallons; except that for purposes of this section a dam shall not include any structure which has (i) a height equal to or less than six feet regardless of the structure's impoundment capacity, or (ii) an impoundment capacity not exceeding one million gallons regardless of the structure's height.

b. Except where a lease or other appropriate conveyance of an interest authorizing the use and occupancy of state-owned lands underwater has been obtained from the commissioner of general services pursuant to subdivision seven of section seventy-five of the public lands law, no dock, wharf, platform, breakwater, mooring, or other structure in, on or above waters shall be erected, placed, constructed, reconstructed, or expanded after the effective date of this paragraph by any person or local public corporation without a permit issued pursuant to subdivision 2 of this section. The term "reconstructed" as used in relation to docks, wharves, platforms, breakwaters, mooring or other structures pursuant to this paragraph shall mean the substantial rebuilding of structures or facilities and shall not apply to ordinary maintenance or repair of existing functional structures or facilities, such as repainting, redriving pilings or replacing broken boards in docks.

c. A city, town, village or county may submit to the commissioner a local law or ordinance regulating docks or other structures as described in paragraph b of this subdivision. The commissioner shall review such law or ordinance to determine whether it provides environmental protection comparable to, or greater than, the provisions of such

paragraph and any regulations promulgated thereunder. If the commissioner determines that the local law or ordinance submitted meets such requirements, the commissioner may delegate, upon such terms and conditions as he or she deems appropriate, to the local government the authority to administer the permit program and to charge a fee for permit processing. Any delegation may be revoked by the commissioner if he or she finds that the local government has failed to carry out the program in accordance with the terms of the delegation.

2. Permits. a. Before granting a permit, a permit renewal or a permit modification pursuant to this section, the department shall ascertain the probable effect on the health, safety and welfare of the people of the state, and the effect on the natural resources of the state likely to result from the proposed project or work.

b. The department shall review the permit application or request for renewal or modification of an existing permit and may approve the manner and extent to which the waters of the state or the banks and shore thereof will be affected by the proposed project or work and may grant or deny the permit or request, or may grant the permit or request with such conditions as might appear necessary to safeguard life, property and natural resources during and after the execution of the proposed project or work.

c. The rules and regulations adopted by the commissioner to implement this section and the provisions of article 70 of this chapter and rules and regulations adopted thereunder shall govern permit applications, renewals, modifications, suspensions and revocations under this section.

d. The requirements of this section shall be in addition to those specified in sections 15-0501 and 15-0505 of this title, provided however, that the department may, by rule and regulation, provide that only one application for a permit or request for renewal or modification of an existing permit need be filed when the proposed project or work requires a department permit under this section and any other section of this title.

3. The requirement of a permit pursuant to this section shall not apply to the following facilities:

a. A dock, pier, wharf or other structure used solely as a landing place on water providing dockage for five or fewer boats and encompassing within its outer perimeter an area less than four thousand square feet;

b. A mooring facility providing mooring for fewer than ten boats;

c. Seasonal replacement or reinstallation of structures referenced and listed in paragraph b of subdivision 1 of this section installed prior to the effective date of this paragraph.

4. The design, preparation of plans, estimates and specifications and the supervision of the erection, construction, reconstruction and repair of all the structures hereinbefore referred to shall be done by a licensed professional engineer, or in the case of farm ponds for which a permit is required, by an engineer or conservationist employed by a governmental agency cooperating with a soil conservation district, or by an engineer employed by the department.

5. Notwithstanding the provisions of this or any other chapter or law to the contrary, no reservoirs for any purpose shall hereafter be constructed on the Upper Hudson River in the Adirondack park between Luzerne and the river's source; the Boreas river from its mouth to Durgin Brook; the Indian river from its mouth to Abanakee Dam; and the Cedar river from its mouth to Cedar River Flow, by the state or by any river regulating board.