§ 15-0505. Protection of navigable waters; excavation or fill; permit.

1. No person, local public corporation or interstate authority shall excavate or place fill below the mean high water level in any of the navigable waters of the state, or in marshes, estuaries, tidal marshes and wetlands that are adjacent to and contiguous at any point to any of the navigable waters of the state and that are inundated at mean high water level or tide, without a permit issued pursuant to subdivision 3 of this section. For the purposes of this section, fill shall include, but shall not be limited to, earth, clay, silt, sand, gravel, stone, rock, shale, concrete (whole or fragmentary), ashes, cinders, slag, metal, or any other similar material whether or not enclosed or contained by (1) crib work of wood, timber, logs, concrete or metal, (2) bulkheads and cofferdams of timber sheeting, bracing and piling or steel sheet piling or steel H piling, separated or in combination. Nothing contained in this section is intended to be, nor shall be construed to limit, impair or affect the memorandum of understanding which any state department enters into with the Department of Environmental Conservation or the general powers and duties of the Department of Transportation relating to canals or the general powers and duties of the Department of Environmental Conservation relating to flood control.

2. A permit application or request for a permit renewal or modification shall be made on forms provided by the department and shall consist of a description of the character and extent of the proposed project or work, drawings, plans and specifications providing the location and details of the proposed project or work, and such additional information as the department may require.

3. Before granting a permit, a permit renewal or a permit modification pursuant to this section the department shall ascertain the probable effect on the use of such waters for navigation, the health, safety and welfare of the people of the state and the effect on the natural resources of the state, including soil, forests, water, fish and aquatic resources therein, likely to result from the proposed project or work.

4. The department shall review the permit application or request for

renewal or modification of an existing permit and may grant or deny the permit or request, or may grant the permit with such conditions as will safeguard life or property against danger or destruction and as will make the navigable waters safe for use by the public.

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

6. The provisions of subdivisions 1, 2, 3 and 4 of this section shall not apply to emergency work in waters described in subdivision 1 of this section which is immediately necessary to protect the health, safety and well-being of any person or persons or to prevent damage to personal or real property, provided that the department is given written notification by registered mail or telegraph within forty-eight hours after the commencement of the work and within forty-eight hours following the completion of the work. Whenever such emergency work is performed as provided in this subdivision, it shall be performed in a manner that will cause the least change, modification, disturbance or damage to the environment.

7. The requirements of this section shall be in addition to those specified in section 15-0501 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 section 15-0501 of this title.