§ 15-0514. Prohibition of certain incompatible uses over either primary groundwater recharge areas or federally designated sole source aquifers.

1. Definitions: The following terms, whenever used or referred to in this section, shall have the following meanings:

a. "Primary groundwater recharge areas" shall mean those areas of the land surface through which water of great volume and high quality generally move downward to the deeper portions of the underlying groundwater reservoir. In the counties of Nassau and Suffolk, primary groundwater recharge areas shall mean Hydrogeologic Zones I, II, III, IV and V as defined in the Long Island Comprehensive Waste Treatment Management Plan of 1978, or any amendments to such boundaries which are accepted by the commissioner.

a-1. "Primary water supply aquifer areas" shall mean those areas in the counties of Nassau, Suffolk, Kings and Queens and the Schenectady aquifer (commonly known as the Great Flats Aquifer), as identified in the nineteen hundred eighty-one New York state department of health report on groundwater dependence in New York state, and defined in the United States Geologic Survey maps for such aquifers, or any amendments to such boundaries which are accepted by the commissioner.

b. "Incompatible uses" shall mean any hazardous waste or substances as determined by the department, that may ultimately be discharged to groundwater, or the storage of such a substance that may contaminate the groundwater.

c. "Long Island Comprehensive Waste Treatment Management Plan of 1978" shall mean the study prepared by the Long Island Regional Planning Board pursuant to section two hundred eight of the Federal Water Pollution Control Act as amended in 1972.

d. "Sole source aquifer" shall mean an aquifer system that the United States environmental protection agency, pursuant to Public Law 93-523 which is known as the federal Safe Drinking Water Act of 1974, has

designated as the sole or principal drinking water source for an area and which, if contaminated, would create a significant hazard to public health.

e. "Hazardous wastes" shall include all materials or chemicals listed as hazardous wastes pursuant to article twenty-seven of this chapter, or all toxic pollutants as defined in subdivision nineteen of section 17-0105 of this chapter.

f. "Hazardous substance" means:

(1) petroleum; or

(2) any substance or combination of substances designated as a hazardous substance under section 311 of the Federal Water Pollution Control Act (33USC1321) and which is not a hazardous waste under title 9 of article 27 of this chapter; or

(3) any substance listed by the department which because of its quantity, concentration, or physical, chemical or infectious characteristics may;

(i) Cause, or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(ii) Pose a substantial present or potential hazard to human health or the environment when improperly stored or otherwise managed.

The department shall promulgate a list of hazardous substances, within one year after the effective date of this section, including petroleum for the purposes of carrying out the applicable provisions of this title. Prior to the promulgation of such list the department shall solicit information on the present practices of industry and other commercial users of hazardous substances.

g. "Petroleum" means oil or petroleum of any kind and in any form including, but not limited to, oil, petroleum, fuel oil, crude oil, petroleum mixed with one or more other substances, gasoline, kerosene, naphtha and as further defined by the department in rules and regulations.

2. The Nassau - Suffolk Hydrogeologic Zones I, II, III, IV and V, and their attendant boundaries as specified in the Long Island Comprehensive Waste Treatment Management Plan of 1978, or any amendments to such boundaries which are accepted by the commissioner are hereby adopted as primary groundwater recharge areas for the counties of Nassau and Suffolk for the purposes of this section.

3. The department shall propose, for the purposes of this section, primary groundwater recharge areas within either other designated sole source aquifer systems, excluding the counties of Nassau and Suffolk, or within primary water supply aquifer areas based upon hydrogeological conditions and recommendations within the department's groundwater management plan, within twelve months subsequent to the date at which the sole source aquifer designation becomes effective or within twelve months of the effective date of this amended subdivision, pursuant to the following procedures:

a. The department shall hold public hearings in regard to the proposed locations and boundaries of the primary groundwater recharge areas.

b. Notice of each public hearing shall be by publication in a newspaper most likely to give notice to the people residing within the primary water supply aquifer. Notice of such hearing shall be printed at least once in each of three successive weeks, but the hearing shall not be conducted less than thirty days following the date of first publication of notice of such hearing.

c. The department shall subsequently finalize and adopt specific locations and boundaries of such primary groundwater recharge areas within three months following the completion of such hearing.

d. Additional primary groundwater recharge areas or new boundaries of existing primary recharge areas may be delineated by the department based upon new hydrogeological information subject to the procedure outlined in paragraphs a, b and c of this subdivision.

4. Copies of the adopted boundaries of the delineated areas shall be

kept on file in the offices of the commissioner and the regional director of the department.

5. The department shall promulgate rules and regulations which will restrict or prohibit incompatible uses over primary water supply aquifers, giving special attention where necessary to protect primary groundwater recharge areas.

6. In undertaking its responsibilities under this section, the department shall give first attention to the protection of pristine, largely undisturbed or undeveloped areas to insure the non-degradation of the water resources of such areas.