§ 27-1301. Definitions.

When used in this title:

1. "Hazardous waste" means a waste which appears on the list or satisfies the characteristics promulgated by the commissioner pursuant to section 27-0903 of this article and any substance which appears on the list promulgated pursuant to section 37-0103 of this chapter; provided, however, that the term "hazardous waste" does not include:

a. Natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel, or mixtures of natural gas and such synthetic gas; nor

b. The residue of emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine; nor

c. Source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the atomic energy act of 1954, if such release is subject to requirements with respect to financial protection established under section 170 of such act (42 U.S.C. 2210) or, for the purpose of section 104 of the comprehensive environmental response, compensation and liability act of 1980 (42 U.S.C. 9604), or any other response action, any source, byproduct, or special nuclear material from any processing site designated under section 102(a)(1) or 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7912(a)(1) or 7942(a)); nor

d. Petroleum as defined in section one hundred seventy-two of the navigation law, even if appearing on the list promulgated pursuant to section 37-0103 of this chapter.

2. "Inactive hazardous waste disposal site" means any area or structure used for the long term storage or final placement of hazardous waste including, but not limited to, dumps, landfills, lagoons and artificial treatment ponds, as to which area or structure no permit or

authorization issued by the department or a federal agency for the disposal of hazardous waste was in effect after the effective date of this title and any inactive area or structure on the National Priorities List established under the authority of 42 U.S.C.A. Section 9605.

3. "Inactive hazardous waste disposal site remedial program" means activities undertaken to eliminate, remove, abate, control or monitor health and/or environmental hazards or potential hazards in connection with inactive hazardous waste disposal sites or to treat or dispose of wastes and waste contaminated materials from such sites including, but not limited to, grading, contouring, trenching, grouting, capping, excavation, transporting, incineration, chemical treatment, biological treatment or construction of leachate collection and treatment facilities.

4. "Person" means an individual, trust, firm, joint stock company, limited liability company, corporation, joint venture, partnership, association, state, municipality, commission, political subdivision of a state, public benefit corporation or any interstate body. Provided, however for purposes of this title, person shall not include a person as defined in section 27-1323 of this title.

5. "Waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, whether or not such material may eventually be used for some other purpose, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations or from community activities, and source, special nuclear or by-product material as defined in the Atomic Energy Act of 1954, as amended, except as may be provided by existing agreements between the state of New York and the government of the United States, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under article seventeen of this chapter.

6. "Disposal" means the abandonment, discharge, deposit, injection,

dumping, spilling, leaking or placing of any substance so that such substance or any related constituent thereof may enter the environment. Disposal also means the thermal destruction of waste or hazardous waste and the burning of such wastes as fuel for the purpose of recovering useable energy.

7. "Environment" means any water, water vapor, any land including land surface or subsurface, air, fish, wildlife, biota and all other natural resources.

8. "Natural resource damages" means the amount of money sought as compensation for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from the disposal of hazardous waste at an inactive hazardous waste disposal site. Damages may also include the value of the natural resource services lost for the time period from the disposal until the attainment of such restoration, rehabilitation, replacement, and/or acquisition of equivalent natural resources.

9. "Natural resources" means land, fish, wildlife, biota, air, water, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the state or a municipality.

10. "Response costs" means the state's costs of developing, implementing, and/or overseeing an inactive hazardous waste disposal site remedial program.

11. "Responsible person" or "person responsible" for the disposal of hazardous waste at a site means:

(a) any person who currently owns or operates a site or any portion thereof except for a volunteer, as defined in subdivision one of section 27-1405 of this article, that is participating under a brownfield cleanup agreement pursuant to section 27-1407 of this article, that is in full compliance with the requirements of this chapter with respect thereto, and is not engaging with the department in bad faith with respect to any provisions of this title;

(b) any person who owned or operated a site or any portion thereof at

the time of disposal of the hazardous waste;

(c) any person who generated any hazardous waste disposed at a site;

(d) any person who transported any hazardous waste to a site selected by such person;

(e) any person who disposed of any hazardous waste at a site;

(f) any person who arranged for:

(i) the transportation of any hazardous waste to a site; or

(ii) the disposal of any hazardous waste at a site; and

(g) any other person who is responsible according to the applicable principles of statutory or common law liability pursuant to subdivision four of section 27-1313 of this title and/or the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9601 et seq.

12. "Disadvantaged community" shall have the same meaning as subdivision five of section 75-0101 of this chapter.