*** § 3-0311. State agency environmental audits.**

1. Each state agency as defined in subdivision five of this section shall annually audit the environmental problems created by its operations or the operations of contractors it has hired and over whom it has exercised or is required to exercise direct oversight, acting in fulfillment of their contracts. Such audit shall identify the extent to which these operations are in violation of this chapter, or regulations adopted thereunder. Each such state agency shall submit a report to the department on or before April first of each year. The report shall:

a. describe:

(1) each identified violation, including the year each violation was first reported to the department;

(2) the progress made in remedying any identified violations, and in remedying the violations identified in the previous year's audit and the past problems previously identified in the department's report dated "January 1990" titled "Past Practices Assessment Report";

(3) disbursements to remedy individual violations or past problems made during the previous year and disbursements recommended to be made or made during the current fiscal year; and

(4) the steps being taken to assure future compliance with state laws and regulations, including any new policies developed to address patterns of violations identified by the audit.

b. rank each violation and past problem based on the threat each poses to the public health or the environment, so that each is placed into one of the following classifications:

(1) presents an imminent substantial threat to the public health or the environment;

(2) presents a potential substantial threat to the public health or the environment;

(3) presents a discernible but not substantial threat to the public health or the environment; or

(4) no evidence of discernible threat to the public health or the environment.

c. include a remedial plan for the correction of all existing identified violations and uncorrected past environmental problems previously identified in the "Past Practices Assessment Report". Such remedial plan shall specify:

(1) the actions the agency intends to take to remedy each violation or problem;

(2) an estimate of the costs, if any, of bringing each violation or problem into compliance, and a total cost estimate for remedying all violations and uncorrected past problems; and

(3) a projected time schedule for remedying each violation or problem.

2. In addition to the audit prepared pursuant to subdivision one of this section, each state agency shall report to the department any violation of this chapter, or regulations adopted thereunder, that presents an imminent substantial, potential substantial, or discernible threat to the public health or the environment, which has been committed on agency property by the agency's lessees or other persons and of which the agency has become aware.

3. The department shall, before September first of each year, submit an annual report to the governor, the director of the budget, the temporary president of the senate, the speaker of the assembly, the chairman of the senate environmental conservation committee, the chairman of the assembly environmental conservation committee, the chairman of the senate finance committee, the chairman of the assembly ways and means committee, and the chairman of the assembly committee on oversight, analysis and investigation.

The report shall include:

a. a summary of the major categories of violations or uncorrected past problems previously identified in the "Past Practices Assessment Report" dated January, nineteen hundred ninety;

b. a description of each violation or uncorrected past environmental problem, including an indication of the year each violation was first reported to the department and an identification of the rank as

determined by each agency, pursuant to paragraph (b) of subdivision one of this section, with any reordering of rankings as determined by the department;

c. a description of the progress made in remedying any reported violations or past environmental problems, and in remedying the violations identified in the previous year's audit, and a listing of disbursements to remedy violations or past problems made during the previous year and disbursements recommended to be made or made during the current fiscal year;

d. a description of enforcement efforts which the department has completed to remedy violations noted in the current or previous year's audit report, including whether the department has taken administrative, civil, or criminal enforcement actions;

e. if the department and the agency have entered into a consent decree regarding the violation or problem, the date the violation or problem was first identified by the department; the date the consent decree was signed; the date by which, according to the consent decree, the violation or problem is to be remedied; and if the remedy date has been extended, the date such extension was granted and the revised remedy date;

f. a description of each agency's remedial plan for the correction of all existing identified violations and uncorrected past environmental problems, specifying:

(1) the actions the agency intends to take to remedy each violation or past problem;

(2) the agency's estimate of the costs, if any, of bringing each violation or problem into compliance, and a total estimate for each agency of the costs of remedying all violations and uncorrected past problems; and

(3) the agency's projected time schedule for remedying each violation or past problem;

g. a determination by the department of the adequacy of each agency's

proposed remedial plan:

(1) for violations and past problems that pose an imminent substantial threat to the public health or the environment;

(2) for violations and past problems that pose a potential substantial threat to the public health or the environment; or

(3) that the department has been required to review pursuant to subdivision four of this section prior to the disbursement of any appropriation for such purpose.

If the department determines that the agency's plan is inadequate, the department shall provide a statement explaining this determination. No determination of adequacy need be included in the report for remedial plans that are the subject of a pending enforcement action or permit proceeding. Remedial plans that are included as part of a completed enforcement action or permit proceeding shall be deemed to have been determined to be adequate; and

h. a listing of violations committed by lessees or other persons reported by each state agency pursuant to subdivision two of this section, and the actions the department has taken to cause each such violation to be remedied.

i. The department may, at its discretion, include any of the information listed in paragraphs (b) through (h) of this subdivision or any additional appropriate material within appendices to the report.

4. Within its requested budget, each state agency shall set forth in the aggregate all proposed appropriations for the purposes of remedying its violations of the environmental conservation law or regulations adopted thereunder. The amount requested to remedy each functional category of violation as well as project specific information for each functional category of violation shall also be set forth. A priority criterion to be considered in determining such proposed appropriations shall be the ranking of such violations as determined by the agency pursuant to paragraph (b) of subdivision one of this section, with any reordering of rankings as determined by the department. Amounts appropriated shall be disbursed for remediation of the violation or

environmental problem only upon review and determination by the department of the adequacy of the remedial plan for correction of any such violation or environmental problem.

5. As used in this section, the term "state agency" or "agency" shall mean:

a. each state department;

b. Division of Military and Naval Affairs, Division of State Police, Division of Housing and Community Renewal, Division for Youth, Office of General Services, Office of Parks, Recreation and Historic Preservation, and State University of New York;

c. any other division, board, commission, office, or bureau of the state which is required to obtain a permit or approval from the department or which undertakes an activity for which it must register with the department;

d. Albany Port District Commission, Battery Park City Authority, Capital District Transportation Authority, Central New York Regional Transportation Authority, Dormitory Authority of the State of New York, Facilities Development Corporation, Metropolitan Transportation Authority (including the operations of all of its operating units), New York State Energy Research and Development Authority, New York State Environmental Facilities Corporation, New York State Olympic Regional Development Authority, New York State Thruway Authority, New York State Urban Development Corporation, Niagara Frontier Transportation Authority, Ogdensburg Bridge and Port Authority, Port Authority of New York and New Jersey, Port of Oswego Authority, Power Authority of the State of New York, Rochester-Genesee Regional Transportation Authority; and

e. any other major agency, public authority or public benefit corporation which performs a state function and which is identified by the commissioner for the purpose of complying with this section.

6. On or before February fifteenth, nineteen hundred ninety-two and thereafter as may be necessary, the department shall develop guidelines for the preparation of environmental audits by state agencies and for the ranking of violations and problems based on the threat each poses to the public health or the environment, pursuant to paragraph (b) of subdivision one of this section.

* NB There are 2 § 3-0311's