§ 71-2702. Definitions.

As used in section 27-0914 of this chapter, and this title, the following terms shall have the following meanings:

1. "Hazardous wastes" means:

(a) Those wastes identified or listed in regulations promulgated pursuant to section 27-0903 of this chapter and all amendments thereto;

(b) Acute hazardous wastes and;

(c) Waste oils, including but not limited to, used engine lubricating oil, fuel oil, motor oil, gear oil, cutting oil, transmission fluid, hydraulic fluid, dielectric fluid, oil storage tank residue, animal oil, and vegetable oil, which have been contaminated by physical or chemical impurities, through use or accident, and have not been subsequently rerefined, and which fail one or more of the characteristic tests listed in regulations promulgated pursuant to section 27-0903 of this chapter and all amendments thereto or which contain any waste identified or listed in regulations promulgated pursuant to section 27-0903 of this chapter and all amendments thereto.

2. "Acute hazardous wastes" means those wastes identified or listed as "acute hazardous wastes" in regulations promulgated pursuant to section 27-0903 of this chapter and all amendments thereto.

3. "Authorization" means the possession, where required, of a valid license, permit or certificate issued by an agency of the state of New York or the federal government or an order issued by the commissioner or the administrator of the federal environmental protection agency under applicable statutes, rules or regulations regarding the possession or release of hazardous or acutely hazardous wastes or substances hazardous or acutely hazardous to public health, safety or the environment or otherwise engaging in conduct which is exempt under applicable statutes, rules or regulations from the requirements of possessing such a license, permit, certificate or order.

4. "Site of generation" means premises where hazardous wastes are produced, used, or stored pursuant to authorization or registration

under the federal solid waste disposal act or under article twenty-seven of this chapter, and all contiguous property owned or leased by the owner or lessor of said premises, including contiguous property which may be otherwise divided by a public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection, and access is by crossing as opposed to going along the right-of-way, and non-contiguous property owned or leased by the owner or lessor of said premises, but connected by a right-of-way which he controls and to which the public does not have access.

5. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any substance so that such substance or any related constituent thereof may enter the environment, or the abandonment of any substance. 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.

6. "Primary water supply" means a body of surface water, fresh or saline or water in a saturated zone or stratum beneath the surface of land or water, best usage of which includes being used for drinking, culinary or food processing, including potable mineral waters, and so classified in regulations promulgated pursuant to section 15-0313 or 17-0301 of this chapter, as amended.

7. "Water" includes lakes, bays, ponds, rivers, streams, and other waters as further defined in subdivision two of section 17-0105 of this chapter.

8. "Pound" means an avoirdupois pound.

9. "Gallon" means a unit of liquid capacity equal to two hundred thirty-one cubic inches or four quarts.

10. "Substance hazardous to public health, safety or the environment" means any substance which:

(a) is identified or listed as a hazardous waste in regulations promulgated pursuant to section 27-0903 of this chapter and all

amendments thereto, regardless of whether at the time of release the substance was actually a waste; or

(b) appears on the list in regulations promulgated pursuant to paragraph (a) of subdivision one of section 37-0103 of this chapter and all amendments thereto.

11. "Substance acutely hazardous to public health, safety or the environment" means any substance which:

(a) is listed as an acute hazardous waste in regulations promulgated pursuant to section 27-0903 of this chapter and all amendments thereto, regardless of whether at the time of release the substance was actually a waste; or

(b) appears on the list in regulations promulgated pursuant to paragraph (b) of subdivision one of section 37-0103 of this chapter and all amendments thereto.

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

13. "Release" means any pumping, pouring, emitting, emptying, or leaching, directly or indirectly, of a substance so that the substance or any related constituent thereof, or any degradation product of such a substance or of a related constituent thereof, may enter the environment, or the disposal of any substance.

14. "Abandonment" means the intentional relinquishment or forsaking of all possession or control of any substance. In any prosecution under this title, it is an affirmative defense to an allegation of abandonment that the defendant surrendered possession or control of such substance to another party who knowingly and voluntarily consented to assume such possession or control.

15. For the purposes of section 27-3101 of this chapter and subdivision five of section 71-2712, subdivisions seven, eight and nine of section 71-2713 and subdivision three of section 71-2714 of this title:

(a) "construction and demolition debris" shall mean waste resulting from construction, remodeling, repair and demolition of structures, buildings and roads, including but not limited to excavated material. Construction and demolition debris shall not include, even if generated from construction, remodeling, repair and demolition activities, municipal solid waste and such other materials that may be listed for exclusion from this definition pursuant to regulations promulgated by the department.

(b) "excavated material" means excess soil, rock, fill, or other material excavated during construction or maintenance activities. "Fill" shall include soil or other granular, compactible material that is authorized for use pursuant to regulations promulgated by the department.