

# INTERSTATE ENVIRONMENTAL COMMISSION

*A TRI-STATE WATER AND AIR POLLUTION CONTROL AGENCY*



## ORGANIZATION AND REGULATIONS

**REVISED  
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## INTERSTATE ENVIRONMENTAL COMMISSION

### ORGANIZATION AND REGULATIONS

This pamphlet contains a collection of the laws under which the Interstate Environmental Commission functions. It includes an edited Tri-State Compact to show presently operative provisions, the Water Quality Regulations, and the supplemental statutes governing the Commission's air pollution program.

A few of the provisions are summarized because their full texts contain much material which was important to the original organization of the Commission but is now obsolete.

#### Tri-State Compact

Contained in Conn. GSA 22a-294 et seq.; NJSA 32:18-1 et seq.; NY (McKinney's Cons. Laws) ECL 21.0501 et seq.; Congressional Consent 49 stat. 932 (1935); Energy and Water Development Appropriations Act, 2001, Public Law 106-377, Title VI, Section 606(a) and (b) (effective October 27, 2000).

#### TRI-STATE COMPACT FOR POLLUTION ABATEMENT

Whereas, The tremendous growth of population and the development of the territory surrounding and adjacent to the harbor of New York has resulted in recent years in an increasingly serious pollution of the harbor, coastal and tidal waters in such area and the tributary waters therein; and

Whereas, Such pollution constitutes a grave menace to the health, welfare and recreational facilities of the people living in such area and is occasioning great economic loss; and

Whereas, The control of future pollution and the abatement of existing pollution in the waters in such area is of prime importance to the people living in such area and can best be accomplished through the cooperation of the States of New Jersey and New York and Connecticut by and through a joint or common agency;

Now therefore, The State of New York and the State of New Jersey and the State of Connecticut do agree and are bound as follows;

#### ARTICLE I

1. Each of the signatory States pledges each to the other faithful cooperation in the control of future pollution and agrees to provide for the abatement of existing pollution in the tidal and coastal waters in the adjacent portions of the signatory States defined herein as coming within

the District, and consistent with such object, to enact adequate legislation which will enable each of the signatory States to put and maintain the waters thereof in a satisfactory sanitary condition and particularly to protect public health; to render safe such waters as are now used or may later become available for bathing and recreational purposes; to abate and eliminate such pollution as becomes obnoxious or causes a nuisance; to permit the maintenance of major fish life, shellfish and marine life in waters now available or that may by practicable means be made available for the development of such fish, shellfish or marine life; to prevent oil, grease or solids from being carried on the surface of the water; to prevent the formation of sludge deposits along the shores or in the waterways; and with the fulfillment of these objectives to abate and avoid incurring unnecessary economic loss by safeguarding the rights of the public in its varied legitimate uses of the waters of the District.

## ARTICLE II

1. To that end they do agree that there shall be created and they do hereby create a district to be known as the Interstate Environmental District (hereinafter referred to as the District) which shall embrace the territory described as follows:

All of the coastal, estuarial and tidal waters within or covering portions of the signatory States as follows:

(a) In Connecticut, Long Island Sound and estuaries and tidal waters thereof between the easterly side of New Haven Harbor at Morgan Point and the Connecticut-New York State boundary, and the Housatonic River up to the northerly boundary lines of the towns of Stratford and Milford.

(b) In New York, all of the tidal waters of Greater New York City; including Kill Van Kull and Arthur Kill, Long Island Sound and the estuaries and tidal waters thereof between the New York City line and the New York-Connecticut State boundary and between the New York City line and the easterly side of Port Jefferson Harbor; the Atlantic Ocean and the estuaries and tidal waters thereof between the New York City line and the easterly side of Fire Island inlet; and the Hudson River and estuaries and tidal waters thereof between the New York and New Jersey State boundary and the northerly line of Rockland County on the westerly side and between the northerly line of New York City and the northerly line of Westchester County on the easterly side of the River.

(c) In New Jersey, the Hudson River and New York Upper Bay and estuaries and tidal waters thereof between the New York-New Jersey boundary and Constable Point on Constable Hook, the Kill Van Kull and Arthur Kill to the mouths of the rivers entering into the Kills; Newark Bay and the estuaries thereof up to the mouth of the Passaic River; and up to the mouth of the Hackensack River; Raritan Bay together with the Raritan River up to the Victory Bridge on said River between Perth Amboy and South Amboy; together with the Cheesequake Creek up to the New York and Long Branch Railroad Bridge on said Creek at Morgan; together with the Matawan Creek up to the New York and Long Branch Railroad Bridge on said Creek at Matawan; Sandy Hook Bay; together with the Shrewsbury River up to the passenger railroad bridge between Navesink Light and

Highland Beach on said River.

### ARTICLE III

1. There is hereby created the Interstate Environmental Commission (hereinafter referred to as the Commission) which shall be a body corporate and politic, having the powers, duties and jurisdiction herein enumerated and such other and additional powers as shall be conferred upon it by the act or acts of a signatory State concurred in by the others and by the act or acts of Congress when necessary.

### ARTICLE IV

1. The Commission shall consist of five commissioners from each State, each of whom shall be a resident voter of the State from which he is appointed.

The commissioners shall be chosen in the manner and for the terms provided by law of the State from which they shall be appointed, and each commissioner may be removed or suspended from office as provided by the law of the State from which he shall be appointed. The commissioners shall serve without compensation, but shall be paid their actual expenses incurred and incident to the performance of their duties.

### ARTICLE V

1. The Commission shall elect from its number a chairman and vice-chairman and shall appoint and at its pleasure remove or discharge such officers and legal, clerical, expert and other assistants as may be required to carry the provisions of this Compact into effect, and shall fix and determine their duties, qualifications and compensations.

It shall adopt a seal and suitable by-laws and shall promulgate rules and regulations for its management and control.

It may maintain one or more offices for the transaction of its business and may meet at any time or place within the signatory States.

A majority of the members from each State shall constitute a quorum for the transaction of business, the exercise of any powers, or the performance of any duties, but no action of the Commission shall be binding unless at least three of the members from each State shall vote in favor thereof.

The Commission shall keep accurate accounts of all receipts and disbursements and shall make an annual report to the Governor and the Legislature of each State setting forth in detail the operations and transactions conducted by it pursuant to this Compact, and shall make recommendations for any legislative action deemed by it advisable, including amendments to the

statutes of the signatory States which may be necessary to carry out the intent and purpose of this Compact, and changes in the District which concentration of population or other cause may require.

The Commission shall not incur any obligations for salaries, office or other administrative expenses prior to the making of appropriations adequate to meet the same; nor shall the Commission pledge the credit of any of the signatory States except by and with the authority of the Legislatures thereof. Each State reserves the right to provide hereafter by law for the examination and audit of the accounts of the Commission by its Comptroller or other official.

## ARTICLES VI & VII

Articles VI and VII are omitted. They contain water quality requirements which have been consolidated into or superseded by the Water Quality Regulations printed later in this pamphlet.

## ARTICLE VIII

1. Each of the signatory States agrees, that in so far as waters within its jurisdiction may flow into any portion of the District, all sewage discharged or permitted to flow into any stream tributary to the tidal waters of the District shall be treated to that extent, if any, which may be necessary to maintain such tributary immediately above its confluence with the tidal waters of the District in a sanitary condition at least equal to the classification requirements determined by the Commission for the tidal waters of the District into which it discharges. The waters of the Hudson River, immediately above the mouth of Sparkhill Creek on the westerly side and the New York-New Jersey boundary extended on the easterly side of the River, shall be maintained in a sanitary condition at ebb tide at least equal to the sanitary condition prevailing in the waters of the River immediately below said boundary at flood tide.

## ARTICLE IX

1. Nothing in this Compact shall be construed to repeal or prevent the enactment of any legislation or the enforcement of any requirement by any signatory State imposing any additional conditions and restrictions to further lessen or prevent the pollution of waters within its jurisdiction.

## ARTICLE X

1. Subject to the provisions of this Compact the Commission, as soon as may be after its organization, after an investigation and after conducting public hearings upon due notice, shall by order prescribe the reasonable date on or before which each municipality or other entity discharging sewage into the designated waters within the District shall be treating such sewage in accordance with the standards specified in this compact. And such order may prescribe that certain specific progress shall be made at certain definite time prior to the final date fixed in such order.

It is the desire of all parties to accomplish the objects herein set forth with the least possible

injury to investments which have already been made in the construction of sewage treatment plants within the District, and where changes or additions to such plants would be necessary to conform to the standards herein adopted, a reasonable time to effect such changes or additions may, in the discretion of the Commission, be granted.

## ARTICLE XI

1. Each of the signatory States agrees that it will prohibit the pollution of the said waters within the District in accordance with the several articles of this Compact, and that it will enact suitable and adequate legislation which will accomplish effectively the objects of this Compact and which will enable its officers, departments, boards and agents to accomplish satisfactorily the obligations and duties assumed by the State under the terms of this Compact, and it is further agreed that the courts of the several States shall have jurisdiction to enforce as against any person, corporation, municipality or other entity or any employee, department or subdivision of the respective signatory States any and all provisions of this Compact.

The Commission shall have authority to investigate and determine if the requirements of the Compact and/or the orders of the Commission pursuant thereto are complied with and if satisfactory progress has not been made, to bring action in its own name in the proper court or courts to compel the enforcement of any and all the provisions of this Compact, and/or the orders of the Commission pursuant thereto.

## ARTICLE XII

Article XII contains provisions regarding the Commission's planning powers.

## ARTICLE XIII

1. Terms used in this Compact are defined as follows:

“District” means the area more particularly described in Article II of this Compact.

“Commission” means the Interstate Environmental Commission.

“Municipality” means any city, incorporated village, borough, county, town, township, district, or any municipality governed by an improvement commission, any joint sewer commission, or any other subdivision of any one of the signatory States, located within the District.

“Rule” or “Regulation” means any rule or regulation established by the Commission not inconsistent with the Constitution of the United States or of any signatory State, promulgated by the Commission touching the abatement of pollution of the waters of the District.

“Tidal Waters” means all those waters which ebb and flow within the designated District.

“Dissolved Oxygen” is the gaseous oxygen held in solution by the water at any given time. It is expressed as a percentage of the maximum amount of oxygen that would be required to saturate the water under the existing conditions of temperature and salinity.

“Pollution” is any foreign matter which renders waters unfit to sustain fish life and unsatisfactory for bathing.

“Sewage Effluent” means the treated sewage discharged from a treatment plant.

“Suspended Solids” means those solid particles carried in suspension in the untreated sewage or sewage effluent.

“Entity” means any organization or association owning, controlling or operating a sewerage system or treatment plant within a municipality.

#### ARTICLE XIV

This Article authorizes the Commission to submit requests for appropriations to the signatory States and establishes a ratio of 45% New York - 45% New Jersey - 10% Connecticut for the state support of the Commission.

#### ARTICLE XV

1. Should any part of this compact be held to be contrary to the Constitution of any signatory State or of the United States, all other severable objects of this compact shall continue to be in full force and effect.

#### ARTICLE XVI

This Article provides for the manner in which the Compact initially became effective.

#### ARTICLE XVII

In addition to, or in substitution for, the classifications of waters set forth in Articles VI and VII of this Compact and the effluent standards made applicable thereto, the Commission may develop and, after public hearing place in force other classifications of waters and effluent standards within the District. Such classifications shall be on the basis of present or intended uses of the waters in question and shall be accompanied by requirements governing the quality of effluents, receiving waters, or both, as the public interest may make appropriate.

Classifications, standards, and requirements adopted pursuant to this Article shall be developed and may be revised with due consideration for uniformity of requirements relating to the quality of effluents and receiving waters within the same classification in all parts of the District.

Classifications made pursuant to this Article shall be governed by and shall implement any water and related land resource plans, water use plans or pollution control plans adopted by appropriate agencies of the signatory States, acting singly or in concert, or through joint intergovernmental agencies. Any exercise of authority by the Commission pursuant to this Article shall be subject to any procedural requirements, if applicable, that may be contained in federal law.

Nothing contained in this Article shall be construed to abridge or limit any power otherwise existing of a signatory State to make and enforce classifications, standards, and requirements for effluents and receiving waters. (Added by amendment)

## Commissioners

Article IV of the Compact provides for five commissioners from each State who are appointed and serve in accordance with the laws of the individual States. While each state has citizen commissioners and some who serve by virtue of the State offices they hold, the specific content of each law varies. It should be noted further that in each of the States the statutory designation of the State official commissioners was made in the initial enabling acts. Reorganizations of the State governments have necessitated changes in the identity of some of the agency heads who now serve.

In New York the Commissioner of the Department of Environmental Conservation is a Commissioner of the Interstate Environmental Commission. He is also authorized to select a statutory representative to act for him at a meeting of the Commission where he does not attend in person. The other four New York members of the Commission are nominated by the Governor and confirmed by the Senate for four year terms.

New Jersey Commissioners are the Commissioner of the Department of Environmental Protection, the Commissioner of the Department of Health, and three Commissioners appointed for five year terms by the Governor and confirmed by the Senate. The Commissioners who are heads of departments of the State Government are authorized to designate statutory representatives to act for them at meetings of the Commission when they do not attend in person.

The Connecticut Commissioners are the Commissioner of the Department of Environmental Protection, the Commissioner of the Department of Health and the Attorney General, and two Commissioners appointed for four year terms by the Governor and confirmed by the Senate. The Commissioners who are heads of agencies of the State Government are authorized to select statutory representatives to act for them at meetings where they do not attend in person.

In all three States, commissioners serve beyond their terms, if their successors have not yet been appointed and qualified.

## Jurisdiction of Courts

The statutes of all three member States give their courts jurisdiction over proceedings which may be commenced by the Commission to enforce orders made pursuant to Article XI.

## **WATER QUALITY REGULATIONS**

Originally, the water quality requirements administered by the Commission were those incorporated in Articles VI and VII of the Compact. The Regulations reproduced below contain all the presently operative requirements, including some from the original Compact text and those administratively made pursuant to Article XVII.

### Water Quality Regulations \*

The Commission's administratively made water quality regulations were adopted in 1971 with revisions in 1977 and further amendments in 1984, 1986 and 1997.

#### 1. General

1.01. All waters of the Interstate Environmental District (whether of Class A, Class B, or any subclass thereof) shall be of such quality and condition that they will be free from floating solids, settleable solids, oil, grease, sludge deposits, color or turbidity to the extent that none of the foregoing shall be noticeable in the water or deposited along the shore or on aquatic substrata in quantities detrimental to the natural biota; nor shall any of the foregoing be present in quantities that would render the waters in question unsuitable for use in accordance with their respective classifications.

1.02. No toxic or deleterious substances shall be present, either alone or in combination with other substances, in such concentrations as to be detrimental to fish or inhibit their natural migration or that will be offensive to humans or which would produce

offensive tastes or odors or be unhealthful in biota used for human consumption.

1.03. No sewage or other polluting matters shall be discharged or permitted to flow into, or be placed in, or permitted to fall or move into the waters of the District, except in conformity with these regulations.

#### 2. Classifications of Waters

2.01. There are two classes of waters within the Interstate Environmental District: Class A and Class B. Each class is divided into subclasses. The requirements of Section 1 of these regulations shall apply to all waters within the Interstate Environmental District. In addition, each subclass of the waters shall meet the requirements and be available for the uses as provided for that subclass.

\* As amended through October 1997

2.02. It is the underlying principle of these regulations that each class and subclass of waters within the Interstate Environmental District is to be suitable for its best intended uses and that all waters are to be protected, maintained, and improved to the end that they will afford as satisfactory conditions as possible for the maintenance and restoration of the natural ecosystems. It is also recognized that different classifications of waters are appropriate for different areas because of varying activities such as are associated with industry, commerce (including waterborne transportation), recreation, and aesthetic enjoyment. All waters should be aesthetic assets and should, at a minimum, be available for those recreational uses which do not bring the human body into direct contact with the water.

2.03(a). Streams and other waterbodies shall have a minimum dissolved oxygen content in accordance with their respective classifications as follows:

- A: Dissolved Oxygen: 5 milligrams per liter
- B-1: Dissolved Oxygen: 4 milligrams per liter
- B-2: Dissolved Oxygen: 3 milligrams per liter

2.03(b). In addition to meeting the requirements set forth in Section 2.03(a) hereof, waters shall in all respects be suitable for their best intended uses as follows:

- A: Suitable for all forms of primary and secondary contact recreation and for fish propagation. In designated areas, they also shall be suitable for shellfish harvesting.
- B-1: Suitable for fishing and secondary contact recreation. They shall be suitable for the growth and maintenance of fish life and other forms of marine life naturally occurring therein, but may not be suitable for fish propagation.
- B-2: Suitable for passage of anadromous fish and for the maintenance of fish life in a manner consistent with the criteria established in Sections 1.01 and 1.02 of these regulations.

2.04. As used in these regulations:

2.04(a). “Primary Contact Recreation” means recreational activity that involves significant ingestion risk, including but not limited to wading, swimming, diving, surfing, and waterskiing.

2.04(b). “Secondary Contact Recreation” means recreational activity in which the probability of significant contact with the water or water ingestion is minimal including but not limited to boating, fishing, and shoreline recreational activity involving limited contact with surface waters.

2.05. Effluents discharged or flowing into waters of any class shall meet the requirements provided herein. The effluent limitation values contained in subsection 2.05(b) are geometric means and in subsections 2.05(c) and (d) are arithmetic means. Industrial effluent limitation values are for process water volume. Any contaminants taken into the discharger's plant or process from the waters of the Interstate Environmental District shall not be charged against the effluent quality in computing the values for compliance with these regulations.

2.05(a). pH within the range from 6.0 to 9.0 may be required if the receiving waters are outside this range.

2.05(b). Fecal coliform content shall not exceed 200 per 100 ml on a 30 consecutive day average; 400 per 100 ml on a 7 consecutive day average; and 800 per 100 ml on a 6 consecutive hour average, but no sample may contain more than 2400 per 100 ml. The only portion of the Interstate Environmental District to which this provision shall not apply at all times is that referred to in Section 3.01(a)(2) hereof. For the aforementioned portion of the District, these disinfection requirements shall apply when disinfection is required to protect the best intended uses of the waters in question. For example, in the case of discharge into waters used primarily for bathing, this bacterial standard need not be required except during the bathing season.

2.05(c). Biochemical Oxygen Demand shall not exceed 30 mg/l on a 30 consecutive day average, 45 mg/l on a 7 consecutive day average, and 50 mg/l on a 6 consecutive hour average. Further, all sewage or other polluting matter discharged or permitted to flow into waters of the District shall first have been so treated as to effect a reduction in the oxygen demand of the effluent sufficient to maintain the dissolved oxygen content in the waters of the District and in the general vicinity of the point of discharge of the sewage or other polluting matter into those waters, at a depth of about five feet below the surface, of not less than the dissolved oxygen concentration set forth in Section 2.03.

2.05(d). Total Suspended Solids content shall not exceed 30 mg/l on a 30 consecutive day average, 45 mg/l on a 7 consecutive day average, and 50 mg/l on a 6 consecutive hour average.

2.05(e). Effluents shall contain no floating solids.

2.05(f). All wastes shall be of a character that will not violate or cause violation of the requirements contained in Section 1 "General".

2.05(g). An effluent discharge which does not satisfy the requirements of the Commission shall not be considered to be in violation thereof if caused by temporary excess flows due to storm water conveyed to treatment plants through combined sewer systems, provided that the discharger is operating the facility with reasonable care, maintenance, and efficiency and has acted and continues to act with due diligence and speed to correct the condition resulting from the storm water flow.

2.06. Unless there has been rainfall in greater than trace amounts or significant melting of frozen precipitation during the immediately preceding 24 hours, no discharges to the waters of the Interstate Environmental District shall occur from combined sewer regulating devices.

### 3. Consistency with States

3.01(a). The following waters of the Interstate Environmental District are hereby classified as Class A:

- (1) the East River east of the Whitestone Bridge and extending out and including the Long Island Sound waters west of a line from the easterly side of New Haven Harbor at Morgan Point in Connecticut to the easterly side of Port Jefferson Harbor in New York;
- (2) the Hudson River from the New York-New Jersey State line opposite Hastings-on-Hudson to the northerly line of Rockland County on the westerly side and the northerly line of Westchester County on the easterly side;
- (3) the Hudson River from its confluence with the Harlem River to the New York-New Jersey State line opposite Hastings-on-Hudson;
- (4) the Raritan River east of the Victory Bridge and into Raritan Bay and to the lower end of the Arthur Kill on a line drawn from the southernmost point of Staten Island to the southernmost point of Perth Amboy;
- (5) Sandy Hook Bay;
- (6) the lower New York Bay northerly to a line drawn from the tip of Fort Wadsworth on Staten Island to the tip of Seagate in Brooklyn;
- (7) the Atlantic Ocean and the estuaries and tidal waters thereof west of the easterly side of Fire Island Inlet and continuing into lower New York Bay.

3.01(b). The following waters of the Interstate Environmental District are hereby classified as Class B-1:

- (1) the Hudson River south of a line from the confluence with the Harlem River into the upper New York Harbor and the portion of the Lower Bay which is north of a line from Fort Wadsworth in Staten Island to the tip of Seagate in Brooklyn. For the purposes of these regulations, the upper New York Harbor terminates at the mouth of the Kill Van Kull (at a north-south line drawn from the northernmost point of Staten Island to the easternmost point at Constable Hook in Bayonne) and to the mouth of the East River (a true east-

west line passing through the southernmost tip of Manhattan Island at the Battery and extending the east shore of the East River in Brooklyn);

- (2) the waters of the East River north of a true east-west line passing through the southernmost tip of Manhattan Island to the Battery extending to the Whitestone Bridge (except that Newtown Creek shall remain B-2) and including the Harlem River to its confluence with the Hudson River;
- (3) the lower portion of the Arthur Kill north of a line from the southernmost part of Staten Island to the southernmost part of Perth Amboy and south of Outerbridge Crossing.

3.01(c). The following waters of the Interstate Environmental District are hereby classified as Class B-2:

the waters of the Arthur Kill north of Outerbridge Crossing and into and including the Newark Bay up to the mouths of the Passaic and Hackensack Rivers and into the Kill Van Kull west of a north-south line drawn from the northernmost point of Staten Island to the easternmost point at Constable Point in Bayonne.

3.02. The classifications made by these regulations shall be governed by and implement any water and related land resource plans, water use plans, or pollution control plans adopted by appropriate agencies of the signatory states. To this end, particular waters within a geographic area designated by these regulations as belonging to a given class or subclass shall, notwithstanding such designation, be deemed to belong to the class or subclass which is appropriate for the use or uses prescribed in the state water and related land resource plan, water use plan, or pollution control plan of the state in which the waters in question are situated and which is applicable thereto.

#### 4. Notice Requirements for Raw Sewage Bypasses and Treatment Reductions

4.01. Prior to any planned discharge of raw sewage material or partially treated sewage material from a public or private sewage treatment facility directly into the waters of the Interstate Environmental District, the discharger shall prepare a notice designed to inform the Interstate Environmental Commission of the location, character and amount of the planned discharge. The notice shall be in the form and contain the information specified by the Interstate Environmental Commission, as more specifically denoted in subdivision 4.03 of this section. The notice required herein does not apply to wet weather discharges from combined sewer overflows or storm sewer overflows.

4.02. Written notice shall be provided to the Interstate Environmental Commission by the discharger as soon as the discharger has actual knowledge of the planned action or event but in no event less than 10 days prior to the planned action or event. Oral notice is not required under this regulation, however, if the discharger chooses to provide oral notice initially, then written notice

must be provided within 24 hours of the oral notification.

4.03. The contents of the notice to the Interstate Environmental Commission shall include at least the following:

4.03(a). Date of the planned action and date of the prospective application for the discharge permit, if required, and the end of any public comment period if required by the discharger's home state;

4.03(b). Name, address and telephone number of the relevant regional and central offices of the state environmental department at which interested persons may obtain further information, when and if so filed;

4.03(c). Name and address of the prospective discharger;

4.03(d). Brief description of each prospective discharger's activities or operations which would result in the prospective discharge(s) (e.g., public or private wastewater treatment plant, sewage system);

4.03(e). Name of the waterway to which each discharge is to be made and a short description of the quality, character, location and entity responsible for each discharge described in the application, a sketch or detailed description of the location of the discharge will serve to satisfy this requirement;

4.03(f). A qualitative description of the discharge, which shall include at least the following:

4.03(f)(1). the estimated rate, duration and frequency of the proposed discharge and, if the discharge is continuous, the average daily flow in gallons per day;

4.03(f)(2). any and all pollutants to be discharged as authorized by a discharge permit, if required, and the anticipated average daily discharge or concentration of pollutants;

4.03(f)(3). the degree of treatment, disinfection and floatables collection that the flow will receive prior to the discharge.

4.04. Any powers herein granted to the Interstate Environmental Commission shall be regarded as in aid of and supplemental to, and in no case a limitation upon, any other powers legally vested in the Interstate Environmental Commission, its member states and the federal government.

## 5. Commission Requirements Consolidated

5.01. It is the purpose and effect of these regulations to contain all of the water quality requirements of the Commission, whether in force because expressly set forth in the Tri-State Compact or in force because adopted by the Commission pursuant to the provision of the Compact variously known as Article XVII or Article VII.3. Accordingly, requirements contained in the Compact and still in force are repeated in these regulations and made part hereof. In accordance with Article XVII or Article VII.3 of the Compact, the other provisions of these regulations are in addition to or in substitution for requirements previously in force.

## 6. Variances

6.01. Any person or other entity discharging effluents is relieved of the requirements for such effluent contained in Section 2.05(c) and (d) if at all times of the year the waters into which the discharge enters meet the requirements of Section 2.03 of these regulations.

The foregoing applies only if the discharger who is discharging biochemical oxygen demand or total suspended solids or both has a permit from the U.S. Environmental Protection Agency or the state pursuant to Section 402 of the Federal Water Pollution Control Act Amendments of 1972 (33 USC 1342), which permit has requirements or limitations relating to discharge of biochemical oxygen demand, total suspended solids, or both, as the case may be, and the discharger is complying with those requirements or limitations.

6.02. Nothing in these regulations shall be construed to encourage or give the sanction of the Interstate Environmental Commission to the degradation of any waters which are of a quality consistent with these regulations. Accordingly, it is the responsibility of any discharger determining that he will proceed under these variance provisions to plan and operate his facilities and processes with due regard for present and changing conditions of and affecting the waters in his area. It shall not be a defense to a violation that the discharger did not anticipate or was not aware of changes which have resulted in the applicability of Sections 2.05(c) and (d) to his effluent discharge.

## 7. Policy

7.01. It is recognized that requirements with respect to the treatment and discharge of liquid wastes are subject to change from time to time and that an upgrading of requirements and standards may occur as circumstances make appropriate.

## **AIR POLLUTION**

The Commission's air pollution work is done pursuant to supplemental statutes enacted by the member states as contemplated in Article III of the Compact. When the program was initiated in 1962, it was on behalf of New York and New Jersey only: New York Laws c. 476 (1960), New Jersey Laws c. 105 (1961). The Connecticut statute was enacted in 1969, Connecticut Laws 22a-305.

The New York, New Jersey and Connecticut statutes contain essentially the same text. Although provisions for appropriations and reciprocal application differ among the States, for simplicity, only the identical text is given here. It has been edited only to remove the special phrasing in each State's version indicating participation with the other two States.

### **Air Pollution Statutes**

In addition to the powers, duties and functions now provided by law, the Interstate Environmental Commission shall have authority to engage in activities with respect to interstate air pollution problems as follows:

- a. to conduct studies;
- b. to undertake research, testing and development;
- c. to gather, exchange and disseminate information with and among public or private bodies, persons or organizations and to cooperate with any of them in solving air pollution problems;
- d. to take samplings and to trace sources of air pollutants;
- e. to refer complaints to an appropriate enforcement agency or agencies of the States in which the sources are located and to which air pollutants are carried, along with such data and information as it may have obtained with respect to the nature, characteristics, source, path and effect of air pollutants;
- f. make recommendations and reports to the governors and legislatures of the participating States.

The primary effort of the Interstate Environmental Commission under this act shall be directed to air contaminant solids, liquids or gases which are toxic, disagreeable or irritant, or which are destructive.

In carrying out its functions under this act, the Interstate Environmental Commission shall make use of the services, facilities and information of existing state, local and federal agencies

wherever feasible and available.

In furtherance of the purposes of this act, the Interstate Environmental Commission is empowered to accept monies, property and other donations or gifts from any person whatever, whether public, private or governmental, real or artificial.

No trade or secret process shall be inquired into by the Interstate Environmental Commission under this act, whether with respect to one or more of the substances or one or more of the processes, operations, techniques or devices used in connection therewith, and whenever a trade secret or secret process is involved, the activity under this act shall be limited to the identification of the device or facility from which the effluent discharged into the outer air derives, and the nature, rate and period of emission of such effluent.

All information obtained from any sampling, tracing or other specific inquiry performed under this act shall be kept and maintained as a confidential disclosure and, except as may be essential for the purpose of referring a complaint to an appropriate enforcement agency and of any enforcement proceeding by or before any such agency, shall not be disclosed or published in any way other than such as will not identify a given substance, process, operation, technique or device with the physical location or identity of the source plant or facility, or with the product made or service performed, or with the person or persons using the same.

A printed copy of the provisions of this section shall be furnished on request to any person furnishing information to the Interstate Environmental Commission and, in case of an inquiry at a plant or facility, to the person then in charge of the same.