

LAWS OF NEW YORK, 2008
CHAPTER 26

AN ACT to amend the Environmental Conservation Law, in relation to creating the New York Invasive Species Council

Became a law August 28, 2007, with the approval of the Governor.

Passed by a majority vote, three-fifths being present.

Amended March 4, 2008 with the approval of the Governor.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article 9 of the Environmental Conservation Law [Lands and Forests] is amended by adding a new Title 17 to read as follows:

TITLE 17
NEW YORK INVASIVE SPECIES COUNCIL

Section 9-1701. Legislative findings.

9-1703. Definitions.

9-1705. New York Invasive Species Council.

9-1707. New York Invasive Species Advisory Committee.

9-1709. General powers and duties of the department.

9-1711. Prohibitions.

§ 9-1701. Legislative Findings.

The Legislature finds that invasive plant and animal species pose an unacceptable risk to New York State's environment and economy and that this risk is increasing through time as more invasive species become established within the state. The Legislature additionally finds that invasive species are having a detrimental effect upon the state's fresh and tidal wetlands, water bodies and waterways, forests, agricultural lands, meadows and grasslands, and other natural communities and systems by out-competing native species, diminishing biological diversity, altering community structure and, in some cases, changing ecosystem processes. Moreover, the Legislature recognizes that the ecological integrity of an increasing number of publicly and privately-owned parks and preserves is being adversely affected by invasive plants and animals, challenging the ability of land management agencies to effectively manage these sites. The

Legislature further recognizes that nearly half (forty-six percent; fifty-seven percent of the plants, thirty-nine percent of the animals) of the species on the federal list of endangered species are declining, at least in part, due to invasive species. The Legislature additionally finds that invasive species have an adverse impact on the New York State economy. Particularly affected by these species are the water supply, agricultural, and recreational sectors of the state economy. The economic impact to the national economy has been estimated to be as high as one hundred thirty-seven billion dollars annually.

§ 9-1703. Definitions.

As used in this Title:

1. "Advisory Committee" means the New York Invasive Species Advisory Committee established by section 9-1707 of this Title.
2. "Council" means the New York Invasive Species Council established by section 9-1705 of this Title.
3. "Control" means, as appropriate, eradicating, suppressing, reducing, or managing invasive species populations, preventing spread of invasive species from areas where they are present, and taking steps such as restoration of native species and habitats to reduce the effects of invasive species and to prevent further invasions.
4. "Ecosystem" means the complex of a community of organisms and its environment.
5. "Introduction" means the intentional or unintentional escape, release, dissemination, or placement of a species into an ecosystem as a result of human activity.
6. "Native species" means, with respect to a particular ecosystem, a species that, other than as a result of an introduction, historically occurred or currently occurs in that ecosystem.
7. "Species" means a group of organisms all of which have a high degree of physical and genetic similarity, generally interbreed only among themselves, and show persistent differences from members of allied groups of organisms.
8. "Plan" means the plan developed pursuant to section 9-1705 of this Title.
9. "GIS" means geographic information system.
10. "Invasive species" means a species that is:
 - (a) nonnative to the ecosystem under consideration; and

- (b) whose introduction causes or is likely to cause economic or environmental harm or harm to human health. For the purposes of this paragraph, the harm must significantly outweigh any benefits.

§ 9-1705. New York Invasive Species Council.

1. There is hereby established the New York Invasive Species Council. Such Council shall consist of a total of **nine members** and shall include:

the [DEC] Commissioner,

the Commissioners of Agriculture and Markets [DAM],

Transportation [DOT],

Parks, Recreation and Historic Preservation [OPRHP],

Education [SED],

the Secretary of State [DOS],

the Chairperson of the New York State Thruway Authority [Thruway],

the Director of the New York State Canal Corporation [Canals], and

the Chairperson of the Adirondack Park Agency [APA],

or a designee of such Department, Agency or Public Authority.

2. The Commissioner of Agriculture and Markets [DAM] and the Commissioner of Environmental Conservation [DEC] or their designees shall serve as joint chairs of the Council.
3. The Council shall meet at least quarterly and shall regularly consult with the Advisory Committee.
4. The Council may consult with any organization, educational institution, or governmental agency, including, but not limited to, the United States Department of Agriculture, the United States Coast Guard, the Port Authority of New York and New Jersey, the National Invasive Species Council and the New York Ocean and Great Lakes Ecosystem Conservation Council.

5. The role of the Council includes, but is not limited to:
- (a) from time to time assessing the nature, scope and magnitude of the environmental, ecological, agricultural, economic, recreational, and social impacts caused by invasive species in the state;
 - (b) from time to time identifying actions taken by members of the Council, state and local governments and the public to:
 - prevent the introduction of invasive species;
 - detect and respond rapidly to and control populations of invasive species in a cost-effective and environmentally sound manner;
 - monitor invasive species populations accurately and reliably;
 - provide for restoration of native species and habitat conditions in ecosystems that have been invaded;
 - conduct research on invasive species and develop technologies to prevent introductions;
 - provide for environmentally sound control of invasive species;
 - promote public education on invasive species; and
 - the means to address invasive species;
 - (c) the development of a “comprehensive plan for invasive species management”. Such plan shall address all taxa of invasive species. The comprehensive plan should, at a minimum:
 - recommend interagency responsibilities;
 - describe coordination among different agencies and organizations;
 - recommend approaches to funding invasive species work;
 - address prevention, early detection and rapid response;
 - identify opportunities for control and restoration, including research needs; and
 - describe effective outreach and education.

Such plan shall recommend responsibilities for different agencies with the goal of reducing or eliminating, where practicable, contradictory or conflicting policies or programs.

Such plan should identify needs for additional staff positions at state agencies and recommend New York State or federal legislation or regulation.

Such plan shall place an emphasis on both prevention and early detection and rapid response to prevent future damage.

Such plan shall evaluate and incorporate, as appropriate:

the approved New York State Aquatic Nuisance Species Management Plan;

the Lake Champlain Basin Aquatic Nuisance Species Management Plan; and

the Adirondack Park Aquatic Nuisance Species Management Plan;

- (d) providing input on funding priorities and grant applications regarding monies made available for the implementation of this Title and grants for projects related to the control and management of invasive species, education and outreach efforts, and for projects aimed at the early detection and prevention of invasive species;
- (e) organizing and convening a biennial invasive species summit to focus and maintain attention on the state's comprehensive invasive species program;
- (f) encouraging industries and trade organizations to develop and adopt voluntary codes of conduct designed to reduce or eliminate the use and distribution of invasive species, reviewing such voluntary codes of conduct and officially recognizing approved codes;
- (g) supporting within available funds and encouraging Partnerships for Regional Invasive Species Management [PRISMs] in their efforts to address invasive species through coordination, recruitment and training of volunteers, education, early detection, rapid response, eradication, research, and planning;
- (h) submitting to the Legislature and the Governor prior to January first, two thousand ten [1 January 2010] a report, produced in consultation with the advisory committee, recommending a four tier system for nonnative animal and plant species. The system shall contain:
 - (i) a list of prohibited species, which should be unlawful to possess, import, purchase, transport, or introduce except under a permit for disposal, control, research, or education;
 - (ii) a list of regulated species which should be legal to possess, sell, buy, and transport but not be introduced into a free-living state;
 - (iii) a list of unregulated species which are nonnative species that should not be subject to regulation; and

- (iv) a procedure for the review of a nonnative species that is not on the prohibited, regulated, or unregulated lists before the use, distribution or release of such nonnative species.

Nothing contained in the report shall have the force of law. The Council shall recommend legislation regarding the four-tier system, including penalties for violations of the four-tier system.

- (i) developing recommendations on statutory actions to prohibit, manage and control invasive species.

§ 9-1707. New York Invasive Species Advisory Committee.

1. There shall be established a New York Invasive Species Advisory Committee which shall provide information, advice and guidance to the Council, including but not limited to providing assistance with the development of the four-tier classification system for nonnative animal and plant species.
2. The Commissioner of Environmental Conservation [DEC] and the Commissioner of Agriculture and Markets [DAM] shall select up to twenty-five [25] at-large members with at least one member from each of the following:

New York biodiversity research institute, [BRI]

New York State's land grant university, [Cornell University]

New York Sea Grant,

a statewide organization formed to address invasive species,

a statewide land conservation organization,

a statewide agricultural organization,

a nursery business,

a boating organization,

the Darrin Freshwater Institute,

the Soil and Water Conservation Districts,

the [New York] Natural Heritage Program,

a New York state forestry school,

a lake association,

the New York City Department of Environmental Protection, and
a statewide local government organization.

3. The members of the Advisory Council shall serve without compensation, except members shall be allowed their necessary and actual expenses [administrative task!]incurred in the performance of their duties under this section.

§ 9-1709. General Powers And Duties Of The Department.

For the purpose of carrying out the provisions of this Title, the Department in cooperation with the Department of Agriculture and Markets shall have the authority, within funds available, to:

1. establish, operate and maintain state-wide databases and clearinghouse for all taxa of invasive species that incorporate existing data from agencies and organizations in the state, as well as from nearby states, provinces, Canada, and the federal government. Such databases and clearinghouses may provide the aggregate data on-line in a GIS;
2. coordinate state agency and public authority actions to do the following:
 - (a) phasing out uses of invasive species;
 - (b) expanding use of native species;
 - (c) promoting private and local government use of native species as alternatives to invasive species; and
 - (d) wherever practical and where consistent with watershed and/or regional invasive species management plans, prohibiting and actively eliminating invasive species at project sites funded or regulated by the state; and
3. in collaboration with the Council, aid in the review and reform of relevant regulatory processes to remove unnecessary impediments to the restoration of invaded ecosystems.