

September 1988

New York Environmental Law Handbook

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Recommended Citation

Daniel J. McMahon, *New York Environmental Law Handbook*, 6 Pace Envtl. L. Rev. 301 (1988)
Available at: <https://digitalcommons.pace.edu/pelr/vol6/iss1/8>

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BOOK REVIEW

NEW YORK ENVIRONMENTAL LAW HANDBOOK (N. Robinson ed. 1988) New York State Bar Association, Albany, New York. Pp. 620. \$70 (hardcover).

In his preface to the *New York Environmental Law Handbook* ("*Handbook*"), Nicholas Robinson¹ states that "[i]t is the aim of this *Handbook* to render the vast and complex subject of environmental law readily accessible to every practicing attorney."² This book represents the diligent efforts of Professor Robinson and numerous contributing authors to reach this goal.

Over the past several years, environmental law has repeatedly been mentioned as an "explosive" area of the law.³ Experienced environmental attorneys, however, did not need to read the headlines to know that environmental law had shown unprecedented growth both in sheer volume and pervasiveness in other areas of law. Against this background, law school programs in environmental law are relatively new and are still in the developmental stages.⁴ As a result, the New York State Bar Association's Environmental Law Section undertook the development and preparation of the *Handbook*.

This book's strength is in its compilation of information which the Editorial Board⁵ considered to be of the greatest use to members of the bar. Over thirty leading experts were

1. Nicholas A. Robinson is a Professor of Law at Pace University School of Law.

2. Robinson, *New York Environmental Law Handbook* iv (1988) [emphasis in original].

3. N.Y. Times, April 29, 1988, at B5, Col. 3.; Bradlow, *Improving Your Firm's Profitability*, 74 Aug. ABA J.72.

4. One notable exception is Pace University School of Law, which offers a certificate program and offers a L.L.M. in Environmental Law.

5. The Editorial Board was composed of leading practitioners including; John Hannah, Jr., G.S. Peter Bergen, Martin S. Baker, Robert H. Kafin and Nancy Harper.

recruited to contribute sections in their respective areas of practice. Any inconvenience caused by slight variations in writing styles is far outweighed by the tremendous amount of information that this book provides.

The *Handbook* is divided into five major chapters. The coverage begins with introductory materials, followed by a discussion of environmental ethics, an overview of applicable law, a coverage of applicable substantive law, and finally coverage of procedural law. Three additional chapters provide useful appendices.

The great expansion of environmental law has inevitably lead to many questions regarding legal ethics. As pointed out in the *Handbook*, “[t]here is ample guidance in the *Code* to suggest the ethically correct course through many an environmental conundrum. There are also, however, some murkier passages.”⁶ Chapter Two addresses these questions. Through hypothetical fact patterns, this chapter illustrates situations where disclosure or some other action may be required. While the examples are hypothetical situations, such as whether to disclose to a lessee that the lessor had previously maintained a waste dump on the property, are very likely to occur. The *Handbook’s* treatment of these possible occurrences is well worth reading.

Chapter Three, titled “Where to Find the Law,” clearly and concisely summarizes the applicable environmental laws governing many activities. The interaction between federal, state, and local law is discussed and explained. Anyone not conversant in “Environmentalese” would greatly benefit from reading this chapter. In addition, it allows for a better understanding of Chapter Four, “Practical Applications of Environmental Law.”

“Practical Applications of Environmental Law” is aptly named and is a major chapter of the *Handbook*. Each of the forty-nine sections in this chapter covers a topic likely to be encountered by a wide array of clients. The topics covered include such diverse areas as: Acid Rain, Endangered Species,

6. *Handbook* at 9.

Highway Construction, Noise, Solar Access, Solid Waste, and Wetlands.

For each topic the applicable substantive environmental law is discussed. As required by any text covering the practice of environmental law, the *Handbook* discusses applicable federal law as well as New York State and local laws.

While the coverage of substantive environmental law is far from sketchy, it is only intended as a starting point.⁷ Far from being a weakness, the overall usefulness and readability of this book is greatly increased by this concise coverage. Each section is extremely well footnoted, thus facilitating further research and study.

The chapter on substantive environmental law is followed by Chapter Five, "Procedures For Practicing Environmental Law." As with the previous chapter, the coverage of environmental procedures in New York necessitates a discussion of federal, New York State, and local government procedural mandates.

The coverage of this chapter includes State Environmental Quality Review Act (SEQRA),⁸ Department of Environmental Conservation Hearing Procedures (DEC),⁹ Uniform Procedure Act (U.P.A.), Freshwater Wetlands Appeals Board,¹⁰ Department of Health (DOH), National Environmental Policy Act (NEPA),¹¹ local government procedures, and an overview of environmental enforcement procedures.

The authors contributing to this chapter do an excellent job of summarizing very complicated procedural requirements in a clear, concise manner. In addition, these sections are well footnoted to assist in a more exacting study of procedural

7. *Id.* at 29.

8. *Id.* at 201-243; State Environmental Quality Review Act, (SEQRA), found in N.Y. Evtl. Conser. Law Article 8, §§ 8-0101 to 8-017 (McKinney 1984) and N.Y. Com. Codes R. & Regs. tit. 6 (McKinney 1984).

9. *Id.* at 244-64; Department of Environmental Conservation (DEC) Hearing Procedures, for a detailed discussion, *see*, 2 Pace Env. L. Rev. 191 (1985); 12 Fordham Urb L.J. (1984).

10. *Id.* at 266-297; Freshwater Wetlands Appeal Board (FWAB); the Freshwater Wetland Act is found at N.Y. Evtl. Conserv. Law § 24-1103(2) (McKinney 1984).

11. *Id.* at 297-311; The National Environmental Policy Act (NEPA), found at 42 U.S.C. §§ 4321-4370 (1986).

requirements.

The *Handbook* repeatedly warns the reader to confirm that the procedures discussed are still current. The time required to produce any hardbound publication will inevitably result in dated material. In a volatile field such as environmental law, even greater care should be taken to ensure that the information relied upon is current.

The final three chapters are also well deserving of attention. Chapter Six is a chronological table of principal New York Environmental Laws. Chapter seven is a compilation of environmental law conservation permits. Every permit required by New York State is abstracted. The permits are arranged by topic under the corresponding Article of the Environmental Conservation Law. For example, eighteen different permits dealing with lands and forests are listed under section 7.09.¹² This format greatly facilitates the locating of appropriate permits.

Included in the abstract of each permit are: the purpose of the permit, application requirements, the authority for requiring the permits, supplemental permits required, common denial reasons and required documentation. Just reading through the great variety of permits is enlightening. For instance, very few people realize that if their clients are involved with piranhas, of seven different permits may be required.

Chapter eight is a listing of federal and federal-state agencies, with jurisdiction by law or special expertise on environmental quality issues.¹³ Both of these chapters provide material which is not always readily accessible.

Professor Robinson and the contributing editors should be commended for their efforts in producing this *Handbook*. They have created an extremely practical and much needed publication. If kept current and expanded, is as planned, the

12. Article 9 of the Environmental Conservation Law is Lands and Forests.

13. This information appears in the Federal Register. 45 Fed. Reg. 7491 (1980). It is reprinted in the *Handbook* for the convenience of the reader.

Handbook should prove to be an invaluable reference for practitioners confronted with environmental issues.

Daniel J. McMahon*

* Mr. McMahon received his B.A. from Nazareth College of Rochester and his J.D. from Albany Law School. Currently, he is the Manager of the New York State Bar Association, Continuing Legal Education Publications Department. The *Handbook* represents one of well over a hundred books and course books published by the Bar Association.

Since the New York Bar Association is a non-profit organization, any profits received from the sale of this book will be used to help support future programs and publications sponsored by the Bar.