S T A T E O F N E W Y O R K

2094

2009-2010 Regular Sessions

I N S E N A T E

February 11, 2009

Introduced by Sen. THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to public hearings

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative finding. The legislature finds and declares that in order to assure full review of applications and proposed department actions on them and to enhance protection of the state's environment, additional criteria are needed which lead to department of environmental conservation adjudicatory proceedings as a result of requests from the public and applicants.

S 2. Subdivision 1 of section 70-0119 of the environmental conservation law, as added by chapter 723 of the laws of 1977, is amended to read as follows:

1. After evaluating an application for a permit and any comments of department staff, other state agencies or units of government or members of the public, the department shall, on or before sixty calendar days after it mails notice to the applicant that the application is complete or on or before sixty days after the application is deemed complete pursuant to the provisions of this article, determine whether or not to conduct a public hearing on the application and mail written notice to the applicant of a determination to conduct a public hearing. Such determination shall be based on whether the evaluation or comments raise substantive and significant issues [relating] *WHICH (A) RELATE* to any findings or determinations the department is required to make pursuant to this chapter, [including] *(B) CREATE* the reasonable likelihood that a permit applied for will be denied or [can be] granted only with [major] *SIGNIFICANT* modifications to the project because the project as proposed may not meet statutory or regulatory criteria or standards, *OR (C) RAISE THE POTENTIAL OF SIGNIFICANTLY IMPROVING THE PERMIT AND THE QUALITY OF*

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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THE ENVIRONMENT OR MITIGATING THE PROJECT'S IMPACT THROUGH MODIFICATION OF PERMIT CONDITIONS OR THE PROJECT IN THE DISCRETION OF THE DEPARTMENT; provided, however, where any comments received from members of the public, PUBLIC OFFICIALS or otherwise raise substantive and significant issues relating to the application and resolution of any such issue may result in denial of the permit [or], the imposition of significant conditions thereon, OR MODIFICATION OF THE PERMIT TO SIGNIFICANTLY BENEFIT THE ENVIRONMENT AND THE PUBLIC INTEREST, the department shall hold a public hearing on the application.

S 3. This act shall take effect on the first of April next succeeding the date upon which it shall have become a law, provided, however that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized and directed to be made and completed through regular rulemaking procedures on or before such effective date.