

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:

1 Section 1. Legislative finding. The legislature finds and declares  
2 that in order to assure full review of applications and proposed depart-  
3 ment actions on them and to enhance protection of the state's environ-  
4 ment, additional criteria are needed which lead to department of envi-  
5 ronmental conservation adjudicatory proceedings as a result of requests  
6 from the public and applicants.

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

10 1. After evaluating an application for a permit and any comments of  
11 department staff, other state agencies or units of government or members  
12 of the public, the department shall, on or before sixty calendar days  
13 after it mails notice to the applicant that the application is complete  
14 or on or before sixty days after the application is deemed complete  
15 pursuant to the provisions of this article, determine whether or not to  
16 conduct a public hearing on the application and mail written notice to  
17 the applicant of a determination to conduct a public hearing. Such  
18 determination shall be based on whether the evaluation or comments raise  
19 substantive and significant issues [relating] WHICH (A) RELATE to any  
20 findings or determinations the department is required to make pursuant  
21 to this chapter, [including] (B) CREATE the reasonable likelihood that a  
22 permit applied for will be denied or [can be] granted only with [major]  
23 SIGNIFICANT modifications to the project because the project as proposed  
24 may not meet statutory or regulatory criteria or standards, OR (C) RAISE  
25 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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1 THE ENVIRONMENT OR MITIGATING THE PROJECT'S IMPACT THROUGH MODIFICATION  
2 OF PERMIT CONDITIONS OR THE PROJECT IN THE DISCRETION OF THE DEPARTMENT;  
3 provided, however, where any comments received from members of the  
4 public, PUBLIC OFFICIALS or otherwise raise substantive and significant  
5 issues relating to the application and resolution of any such issue may  
6 result in denial of the permit [or], the imposition of significant  
7 conditions thereon, OR MODIFICATION OF THE PERMIT TO SIGNIFICANTLY BENE-  
8 FIT THE ENVIRONMENT AND THE PUBLIC INTEREST, the department shall hold a  
9 public hearing on the application.

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