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

2093

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 uniform procedures

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

Section 1. Subdivision 1 of section 70-0107 of the environmental conservation law, as added by chapter 723 of the laws of 1977, is amended to read as follows:

1. The department, after public hearing, shall adopt rules and regulations to assure the efficient and expeditious administration of this article. Such rules and regulations shall include but not be limited to provisions regarding notice, review, public participation and public hearings. IN ADDITION TO BEING PLACED IN A PUBLICATION OF GENERAL CIRCULATION IN THE COUNTY OR BOROUGH IN WHICH THE PROJECT IS LOCATED, OR IN MORE THAN ONE PUBLICATION IF APPROPRIATE, WHERE ONE OR MORE PUBLICATIONS OF LESS THAN COUNTY-WIDE CIRCULATION EXIST IN THE PROJECT AREA NOTICE SHALL BE PLACED IN AT LEAST ONE SUCH PUBLICATION, AND IN A PROJECT AREA WHERE TWENTY-FIVE PERCENT OR MORE OF THE POPULATION IS NON-ENGLISH SPEAKING, NOTICE SHALL ALSO BE PLACED IN AT LEAST ONE PUBLICATION WHICH IS WIDELY CIRCULATED IN THE AREA PRINTED IN SUCH LANGUAGE.

S 2. Paragraph (a) of subdivision 1 of section 70-0109 of the environmental conservation law, as added by chapter 723 of the laws of 1977, is amended to read as follows:

(a) On or before fifteen calendar days after the receipt of an application for a permit which has been filed in a manner and in a form prescribed by the department, the department shall mail written notice to the applicant of its determination whether or not the application is complete AND SHALL PUBLISH A LISTING IN THE ENVIRONMENTAL NOTICE BULLETIN THAT SUCH APPLICATION, WHETHER OR NOT COMPLETE, HAS BEEN SUBMITTED.

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

LBD02713-01-9

S 3. Subdivision 1 of section 70-0109 of the environmental conservation law is amended by adding a new paragraph (f) to read as follows:

(F) A MEMBER OF THE PUBLIC, UPON REQUEST IN WRITING, SHALL BE (I) GIVEN ACCESS TO ALL CORRESPONDENCE BETWEEN THE APPLICANT AND THE DEPARTMENT EXCEPT FOR TRADE SECRETS OR MATERIAL MAINTAINED FOR THE REGULATION OF COMMERCIAL ENTERPRISE WHICH IF DISCLOSED WOULD CAUSE SUBSTANTIAL INJURY TO THE COMPETITIVE POSITION OF THE APPLICANT, AND (II) INFORMED ABOUT PRE-APPLICATION CONFERENCES OR MEETINGS BETWEEN THE DEPARTMENT AND ANY APPLICANT AND MAY ATTEND WITHOUT PARTICIPATING IN THOSE IN WHICH HE OR SHE HAS AN INTEREST.

S 4. Paragraph (a) of subdivision 2 of section 70-0109 of the environmental conservation law, as amended by chapter 285 of the laws of 1990, is amended to read as follows:

(a) Immediately upon determining that an application is complete, the department shall cause a notice of application to be published in the next available environmental notice bulletin which shall be not later than ten calendar days after the date of such determination and not less than once during the fifteen calendar day period following such determination in a newspaper having general circulation in the area in which the project is proposed to be located, and shall provide notice to the chief executive officer of each municipality in which the proposed project is located, and may direct the applicant to provide such reasonable notice and opportunity for comment to the public as the department deems appropriate. IN NO CASE SHALL THE PUBLIC COMMENT PERIOD BE LESS THAN TWENTY DAYS FROM DATE OF PUBLICATION, OR FORTY-FIVE DAYS IF A LEGISLATIVE HEARING OR PUBLIC HEARING IS SCHEDULED. IF NO HEARING IS SCHEDULED AND A MEMBER OF THE PUBLIC REQUESTS DURING THE COMMENT PERIOD THAT A LEGISLATIVE OR PUBLIC HEARING BE HELD, THE COMMENT PERIOD SHALL BE EXTENDED AN ADDITIONAL THIRTY DAYS FROM DATE OF PUBLICATION IN THE ENVIRONMENTAL NOTICE BULLETIN OF NOTICE THAT SUCH A REQUEST HAS BEEN MADE. Newspaper publications shall be provided by the applicant.

S 5. This act shall take effect on the sixtieth day after it shall have become a law.