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

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I N A S S E M B L Y

January 21, 2011

Introduced by M. of A. SWEENEY, ZEBROWSKI, LIFTON, JAFFEE, MAGNARELLI, KAVANAGH, TITONE, CYMBROWITZ, REILLY, SPANO, CASTRO, N. RIVERA, P. RIVERA, ROSENTHAL, MAISEL, PERRY, ORTIZ, BRENNAN, COOK, PHEFFER, WEISENBERG, SCHIMEL, COLTON, BARRON -- Multi-Sponsored by -- M. of A. CASTELLI, DESTITO, GOTTFRIED, LENTOL, MAGEE, MARKEY, McENENY, MILLMAN, O'DONNELL, THIELE -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the use of hydraulic fracturing fluids

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

Section 1. The opening paragraph and paragraph d of subdivision 8 of section 23-0305 of the environmental conservation law, as amended by chapter 846 of the laws of 1981, are amended to read as follows:

With respect to oil pools or fields and natural gas pools or fields, the department shall [have power to]:

d. (I) Require the drilling, casing, operation, plugging and replugging of wells and reclamation of surrounding land in accordance with rules and regulations of the department in such manner as to prevent or remedy the following, including but not limited to: the escape of oil, gas, brine or water out of one stratum into another; the intrusion of water into oil or gas strata other than during enhanced recovery operations; the pollution of fresh water supplies by oil, gas, salt water, HYDRAULIC FRACTURING FLUIDS or other contaminants; and blowouts, cavings, seepages and fires. SUCH RULES AND REGULATIONS SHALL REQUIRE THE DISCLOSURE OF ALL HYDRAULIC FRACTURING FLUID COMPONENTS AND SHALL PROHIBIT THE USE OF HYDRAULIC FRACTURING FLUIDS THAT CONTAIN A CHEMICAL SUBSTANCE THAT POSES A RISK TO HUMAN HEALTH, INCLUDING BUT NOT LIMITED TO, HYDRAULIC FRACTURING FLUIDS THAT CONTAIN A CHEMICAL SUBSTANCE THAT HAS BEEN IDENTIFIED PURSUANT TO THE FEDERAL TOXIC SUBSTANCES CONTROL ACT AS PERSISTENT, BIOACCUMULATIVE AND TOXIC OR IS A KNOWN MUTAGEN.

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

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(II) NO PERMIT SHALL BE ISSUED FOR THE DRILLING OR OPERATION OF ANY WELL PROPOSING TO USE HYDRAULIC FRACTURING FLUIDS UNTIL THE DEPARTMENT HAS ADOPTED RULES AND REGULATIONS CONSISTENT WITH THE PROVISIONS OF THIS CHAPTER.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.