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I N A S S E M B L Y

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Introduced by M. of A. BRENNAN, COLTON, MILLMAN, CASTRO, LIFTON, LENTOL, CLARK, KELLNER, LANCMAN, PAULIN, BARRON, KAVANAGH, CAMARA, CRESPO, TITONE, SCHIMEL, MENG -- Multi-Sponsored by -- M. of A. COOK, CYMBROWITZ, GLICK, GOTTFRIED, JACOBS, LATIMER, MAISEL, PHEFFER, ROBINSON, ROSENTHAL, WEISENBERG -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the regulation of the drilling of natural gas resources

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

- 1 Section 1. Legislative intent. 1. The legislature finds that the proc-  
2 ess used to stimulate natural gas extraction referred to as hydraulic  
3 fracturing utilizes components that are often toxic, that are non-biode-  
4 gradable, and that are virtually impossible to remove once they enter  
5 the natural environment. Thus, they pose such a high level of environ-  
6 mental risk that the policy of the state must be to insure they are  
7 excluded from any area that is significant for public drinking water  
8 resources or any other area that is environmentally sensitive.
- 9 2. Natural gas drilling is potentially highly transformative of rural  
10 landscapes, offering economic benefits to many landowners, but threaten-  
11 ing the property values of other local landowners, traditional rural  
12 economic activity, the carrying capacity of local infrastructure, the  
13 natural habitat of wildlife, and the public health and quality of life  
14 of residents in areas where there is natural gas extraction taking  
15 place. Unless these resources are protected in the permitting and regu-  
16 latory processes of the state, the costs of Marcellus shale natural gas  
17 extraction will exceed the benefits and natural gas extraction will  
18 become a fundamentally unfair and divisive process in which the profits  
19 of some are subsidized by the costs to others.
- 20 3. The proposed scope of natural gas drilling across the state of New  
21 York will present unprecedented challenges of regulatory oversight.

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

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1 Funding for such oversight must be sufficient to meet this challenge and  
2 should come from a series of fees paid by the natural gas industry.  
3 Similarly, the natural gas industry should pay for all other costs asso-  
4 ciated with natural gas extraction. Otherwise, natural gas extraction  
5 will be unfairly subsidized, either by the New York state taxpayer or  
6 by the impacts on local human and natural resources.

7 4. One of the chief environmental and infrastructure assets of the  
8 state of New York is its drinking water systems, which play a fundamen-  
9 tal role in the economic productivity and public health of the state.  
10 The legislature finds that no risk to these resources and to the public  
11 health of their users is acceptable and that the policy of the state  
12 with respect to the management of shale gas extraction must be one of no  
13 drinking water risk.

14 5. The purpose of this legislation is to insure that the exploitation  
15 of shale natural gas resources is conducted in a manner that is consist-  
16 ent with and supportive of New York state's commitment to sustainabili-  
17 ty, and is consistent with other state economic development, energy and  
18 environmental policies.

19 6. Therefore, in light of the many commitments the state of New York  
20 has made to more sustainable development and the critical role greening  
21 the state's economy will play in the future prosperity of the state, the  
22 only acceptable natural gas extraction practices will be sustainable  
23 ones. This act is intended to ensure that that goal is met.

24 S 2. Article 23 of the environmental conservation law is amended by  
25 adding a new title 29 to read as follows:

#### 26 TITLE 29

#### 27 REGULATION OF NATURAL GAS DRILLING

28 SECTION 23-2901. NATURAL GAS DRILLING; PROHIBITION NEAR WATERSHED.

29 23-2903. DISCLOSURE OF HYDRAULIC FRACTURING MATERIALS.

30 23-2905. PROTECTION OF OTHER ENVIRONMENTAL RESOURCES.

31 23-2907. PROTECTION OF LOCAL RESOURCES.

32 23-2909. WATER WITHDRAWALS.

33 23-2911. ENFORCEMENT AND FINANCIAL SECURITY.

34 23-2913. OTHER PROVISIONS.

35 S 23-2901. NATURAL GAS DRILLING; PROHIBITION NEAR WATERSHED.

36 1. NATURAL GAS DRILLING SHALL NOT BE PERMITTED WITHIN THE NEW YORK  
37 CITY WATERSHED OR AT ANY POINT WITHIN FIVE MILES OF ITS BOUNDARY.

38 2. NATURAL GAS DRILLING SHALL NOT BE PERMITTED WITHIN THE WATERSHED OF  
39 THE DELAWARE RIVER, IN ANY RECHARGE AREA OF A SOLE SOURCE AQUIFER, IN  
40 ANY AREA WHERE GROUNDWATER CONTRIBUTES A SIGNIFICANT BASE FLOW TO  
41 SURFACE WATER SOURCES OF DRINKING WATER, AND IN ANY OTHER AREA WHERE THE  
42 DEPARTMENT SHALL FIND PRESENTS A SIGNIFICANT THREAT OF HYDRAULIC FRAC-  
43 TURING COMPOUNDS ENTERING INTO A SIGNIFICANT SOURCE OF DRINKING WATER.

44 3. NATURAL GAS DRILLING SHALL BE CONDUCTED IN WAYS THAT DO NOT CONTAM-  
45 INATE DRINKING WATER. IN ANY AREA WHERE NATURAL GAS DRILLING TAKES PLACE  
46 AND CONTAMINATION OF INDIVIDUAL DRINKING WATER WELLS OCCURS, THERE SHALL  
47 BE A PRESUMPTION THAT THE NATURAL GAS DRILLING IS RESPONSIBLE FOR SUCH  
48 CONTAMINATION UNLESS THE NATURAL GAS DRILLER CAN SHOW, BY CLEAR AND  
49 CONVINCING EVIDENCE, THAT SUCH DRILLER IS NOT THE SOURCE OF THE CONTAM-  
50 INATION. UPON RECEIVING A REPORT OF AN INCIDENT OF WELL CONTAMINATION  
51 FROM NATURAL GAS DRILLING, THE DEPARTMENT SHALL INVESTIGATE SUCH REPORT  
52 EXPEDITIOUSLY, BUT IN NO CASE MORE THAN TWENTY-FOUR HOURS AFTER SUCH  
53 REPORT AND SHALL HAVE THE AUTHORITY TO ORDER IMMEDIATE REMEDIAL ACTION,  
54 INCLUDING ISSUING IMMEDIATE CEASE AND DESIST ORDERS WITH RESPECT TO THE  
55 DRILLING ACTIVITY. IN THE EVENT THAT THE DEPARTMENT IS UNABLE TO INVES-  
56 TIGATE SUCH REPORT WITHIN TWENTY-FOUR HOURS, IT MAY REQUEST THAT LOCAL

1 OR STATE POLICE AUTHORITIES CONFIRM THE INCIDENT AND REPORT AND, IF  
2 CONFIRMED, SHALL ISSUE A CEASE AND DESIST ORDER TO SUCH DRILLER UNTIL IT  
3 SHALL MAKE SUCH INVESTIGATION AND DETERMINE THE PROPER COURSE OF INSUR-  
4 ING FULL REMEDIATION.

5 4. ANY SPILLS OR PROHIBITED DISCHARGES OF HYDRAULIC FRACTURING  
6 COMPOUNDS SHALL BE IMMEDIATELY REPORTED BY THE NATURAL GAS DRILLER TO  
7 THE DEPARTMENT, WHICH SHALL ESTABLISH PROCEDURES FOR RECORDING AND  
8 REVIEWING SUCH REPORTS AND FOR ORDERING REMEDIAL ACTION TO CONTAIN THE  
9 SPILL AND KEEP THE SPILL OR DISCHARGE INCIDENT FROM BEING REPEATED. THE  
10 DEPARTMENT SHALL HAVE THE AUTHORITY TO IMPOSE FINES FOR FAILURE TO  
11 REPORT SUCH INCIDENTS, TO ORDER IMMEDIATE CLEANUP OF SUCH SPILLS AT THE  
12 EXPENSE OF SUCH DRILLER AND, SHOULD SUCH DRILLER FAIL TO DO SO IN A  
13 TIMELY FASHION, TO ENTER INTO THE DRILLING AREA AND DO THE CLEANUP  
14 ITSELF, AT THE EXPENSE OF SUCH DRILLER. IN ANY INSTANCE WHERE SUCH DRIL-  
15 LER SHALL REFUSE TO CARRY OUT A DEPARTMENT CLEANUP OR REMEDIAL ACTION  
16 ORDER IN A TIMELY AND APPROPRIATE MANNER, THE DEPARTMENT SHALL ORDER ALL  
17 DRILLING ACTIVITY TO CEASE AND DESIST UNTIL SUCH TIME AS THE SPILL HAS  
18 BEEN CLEANED UP AND SUCH DRILLER HAS REMEDIATED THE CONDITIONS OR PRAC-  
19 TICES THAT CAUSED THE SPILL.

20 5. ANY DRILLER OF NATURAL GAS WHO KNOWINGLY ATTEMPTS TO COVER UP A  
21 SPILL OR PROHIBITED DISCHARGE SHALL BE GUILTY OF A CLASS A MISDEMEANOR.  
22 ANY DRILLER OF NATURAL GAS WHO KNOWINGLY DISCHARGES HYDRAULIC FRACTURING  
23 COMPOUNDS INTO THE SURFACE WATERS OF THE STATE SHALL BE GUILTY OF A  
24 CLASS E FELONY.

25 6. NOTHING IN THIS TITLE OR ANY OTHER LAW OR REGULATION SHALL ALTER,  
26 LIMIT, IMPAIR OR OTHERWISE AFFECT THE AUTHORITY OF THE STATE OF NEW  
27 YORK, OR THE AUTHORITY OF THE CITY OF NEW YORK IN THE NEW YORK CITY  
28 WATERSHED, TO TAKE WHATEVER MEASURES ARE NECESSARY UNDER THE LAW TO  
29 PROTECT THE QUALITY AND SAFETY OF THE SOURCES OF THE DRINKING WATERS OF  
30 NEW YORK STATE.

31 S 23-2903. DISCLOSURE OF HYDRAULIC FRACTURING MATERIALS.

32 1. ALL COMPONENTS OF HYDRAULIC FRACTURING MATERIALS SHALL BE DISCLOSED  
33 TO THE DEPARTMENT AT THE TIME OF APPLICATION FOR A WELL PERMIT FOR THE  
34 DRILLING OF NATURAL GAS PURSUANT TO THIS ARTICLE.

35 (A) EMERGENCY HEALTH SITUATION. WHEN A HEALTH PROFESSIONAL DETERMINES  
36 THAT A MEDICAL EMERGENCY EXISTS RELATED TO A HYDRAULIC FRACTURING OPERA-  
37 TION AND THE INGREDIENTS AND SPECIFIC CHEMICAL IDENTITY OF A HYDRAULIC  
38 FRACTURING FLUID IS NECESSARY FOR EMERGENCY OR FIRST-AID TREATMENT, THE  
39 HYDRAULIC FRACTURING OPERATOR SHALL IMMEDIATELY DISCLOSE THE SPECIFIC  
40 CHEMICAL IDENTITY OF A TRADE SECRET CHEMICAL TO THE TREATING HEALTH  
41 PROFESSIONAL, REGARDLESS OF THE EXISTENCE OF A WRITTEN STATEMENT OF NEED  
42 OR A CONFIDENTIALITY AGREEMENT.

43 (B) NON-EMERGENCY HEALTH SITUATION. WHEN A HEALTH PROFESSIONAL OR  
44 GOVERNMENT AGENCY DETERMINES THAT THE INGREDIENTS AND SPECIFIC CHEMICAL  
45 IDENTITY OF A HYDRAULIC FRACTURING FLUID ARE NECESSARY FOR MEDICAL  
46 TREATMENT, AN OPERATOR SHALL DISCLOSE A SPECIFIC CHEMICAL IDENTITY TO A  
47 HEALTH PROFESSIONAL OR GOVERNMENT AGENCY IF A REQUEST HAS BEEN MADE IN  
48 WRITING THAT DESCRIBES WITH REASONABLE DETAIL ONE OR MORE HEALTH OR  
49 SAFETY NEEDS FOR THE INFORMATION AND INCLUDES A DESCRIPTION OF THE  
50 PROCEDURES TO BE USED TO MAINTAIN THE CONFIDENTIALITY OF THE DISCLOSED  
51 INFORMATION. THE HEALTH PROFESSIONAL OR GOVERNMENT AGENCY SHALL AGREE IN  
52 A WRITTEN CONFIDENTIALITY AGREEMENT THAT THE TRADE SECRET INFORMATION  
53 WILL NOT BE USED FOR ANY PURPOSE OTHER THAN THE HEALTH NEEDS ASSERTED  
54 AND SHALL AGREE NOT TO RELEASE THE INFORMATION UNDER ANY CIRCUMSTANCES  
55 OTHER THAN TO A HEALTH PROFESSIONAL OR GOVERNMENT AGENCY.

1 2. NO NATURAL GAS DRILLER MAY CHANGE THE COMPONENTS OR COMPOSITION OF  
2 HYDRAULIC FRACTURING MATERIALS FROM THOSE SPECIFIED IN ITS PERMIT APPLI-  
3 CATION WITHOUT FIRST FILING FOR AND RECEIVING A MODIFICATION OF SUCH  
4 PERMIT.

5 3. THE DEPARTMENT SHALL ESTABLISH A STANDARD FOR THE COMPOSITION OF  
6 HYDRAULIC FRACTURING COMPOUNDS AND REQUIRE NATURAL GAS DRILLERS TO USE  
7 SUCH STANDARD. THE DEPARTMENT SHALL HAVE THE POWER TO PROHIBIT THE USE  
8 OF SPECIFIC CHEMICALS IN THE COMPOSITION OF HYDRAULIC FRACTURING MATERI-  
9 ALS.

10 4. HYDRAULIC FRACTURING LIQUIDS AND LIQUID WASTE FROM DRILLING MAY NOT  
11 BE STORED IN OPEN LAGOONS, BUT MUST BE KEPT IN CORROSION PROOF TANKS.

12 5. NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR ADMINISTRATIVE DETER-  
13 MINATION, HYDRAULIC FRACTURING MATERIAL SHALL BE REGARDED AS HAZARDOUS  
14 WASTE AND TREATED AND DISPOSED OF AS SUCH.

15 6. THE DEPARTMENT SHALL ISSUE REGULATIONS REQUIRING THE TRACKING OF  
16 ALL CHEMICAL COMPONENTS OF HYDRAULIC FRACTURING MATERIALS AND SHALL HAVE  
17 THE POWER TO ENFORCE SUCH REGULATIONS BY APPROPRIATE FINES AND CEASE AND  
18 DESIST ORDERS.

19 S 23-2905. PROTECTION OF OTHER ENVIRONMENTAL RESOURCES.

20 1. DRILLERS OF NATURAL GAS SHALL BE RESPONSIBLE FOR MITIGATING ALL  
21 DAMAGE TO ANY ENVIRONMENTAL RESOURCES, INCLUDING BUT NOT LIMITED TO AIR,  
22 WETLANDS, STREAM CORRIDORS, AND ENDANGERED AND THREATENED SPECIES HABI-  
23 TAT.

24 2. WELL PERMITS FOR THE DRILLING OF NATURAL GAS SHALL NOT BE GRANTED  
25 IN ANY AREA WHERE SUCH DRILLING SHALL ADVERSELY IMPACT THE RECOVERY OF  
26 THREATENED OR ENDANGERED SPECIES OR WHERE IT SHALL DESTROY OR DEGRADE  
27 OTHER UNIQUE NATURAL OR SCENIC RESOURCES. WELL PERMITS FOR THE DRILLING  
28 OF NATURAL GAS SHALL NOT BE GRANTED IN ANY AREA THAT IS DESIGNATED AS  
29 FOREVER WILD UNDER THE STATE CONSTITUTION OR LAWS, IN STATE PARKS, IN  
30 AREAS IDENTIFIED FOR STATE ACQUISITION AND/OR PROTECTION UNDER THE STATE  
31 OPEN SPACE PLAN, OR IN STATE FORESTS AND STATE PARKS.

32 3. APPLICATIONS FOR A WELL PERMIT FOR THE DRILLING OF NATURAL GAS  
33 SHALL INCLUDE AN ASSESSMENT OF ITS IMPACT ON LOCAL BIODIVERSITY  
34 RESOURCES AND A SHOWING THAT SUCH DRILLING SHALL BE WITHIN THE LEASEHOLD  
35 AT THE LOWEST IMPACT POINT ON WILDLIFE. TO MINIMIZE IMPACT THROUGH  
36 EITHER GROUND DISTURBANCE OR TRAFFIC, ALL EFFORTS SHALL BE MADE TO CLUS-  
37 TER WELLS, CENTRALIZE OPERATIONS, AND USE TELEMETRY. IF NECESSARY,  
38 SEASONAL RESTRICTIONS SHALL BE IMPOSED TO PROTECT WILDLIFE BREEDING OR  
39 MIGRATION.

40 4. APPLICATIONS FOR A WELL PERMIT FOR THE DRILLING OF NATURAL GAS  
41 SHALL LIST ALL EXPECTED EMISSIONS OF AIR POLLUTANTS, INCLUDING, BUT NOT  
42 LIMITED TO, ALL GREENHOUSE GASES SUCH AS METHANE. THE DEPARTMENT SHALL  
43 HAVE THE AUTHORITY TO SPECIFY LIMITS ON ALL SUCH AIR EMISSIONS AS A  
44 CONDITION OF GRANTING SUCH PERMIT, TO REQUIRE APPROPRIATE EMISSIONS  
45 MONITORING AND CONTROLS BY THE OPERATOR, AND TO DENY ANY PERMIT WHOSE  
46 OPERATION SHALL BE INCONSISTENT WITH STATE POLICY AND REGULATIONS WITH  
47 RESPECT TO ADDRESSING GLOBAL WARMING.

48 S 23-2907. PROTECTION OF LOCAL RESOURCES.

49 1. THE DEPARTMENT SHALL HAVE THE AUTHORITY TO IMPOSE FEES TO COMPEN-  
50 SATE LOCAL GOVERNMENT FOR ANY COSTS OR IMPACTS IMPOSED UPON SUCH GOVERN-  
51 MENTS AS A RESULT OF DRILLING FOR NATURAL GAS.

52 2. THE DEPARTMENT, IN ITS PERMITTING DECISIONS, SHALL TAKE CARE TO  
53 INSURE THAT NATURAL GAS WELLS ARE SITUATED IN WAYS THAT MAXIMIZE FIELD  
54 PRODUCTIVITY WHILE MINIMIZING IMPACTS ON THE LANDSCAPE. FOR THIS  
55 PURPOSE, THE DEPARTMENT MAY, WITHIN SPECIFIC REGIONAL AREAS, ESTABLISH  
56 PROCEDURES TO REQUIRE PERIODIC BATCH PROCESSING OF PERMIT APPLICATIONS,

1 INCLUDING MANDATORY DATES FOR APPLICATION SUBMISSION, AND MAY IMPOSE  
2 WELL CLUSTERING, CENTRALIZED OPERATIONS, AND THE USE OF TELEMETRY.

3 3. ALL SITING OF NATURAL GAS DRILLING ACTIVITY SHALL CONFORM TO LOCAL  
4 ZONING.

5 4. ANY PERMIT HOLDER SHALL BE REQUIRED, AT THE END OF ITS DRILLING  
6 OPERATIONS, TO FULLY RESTORE THE DRILL SITE TO ITS PREVIOUS NATURAL  
7 CONDITION. TO ENFORCE THE PROVISIONS OF THIS SUBDIVISION, BEFORE ANY  
8 LAND CLEARING OPERATIONS RELATED TO DRILLING ARE COMMENCED, SUCH PERMIT  
9 HOLDER SHALL FILE WITH THE DEPARTMENT, A NON-REVOCABLE AND BANKRUPTCY  
10 PROOF BOND SUFFICIENT, UNDER REGULATIONS TO BE ISSUED BY THE DEPARTMENT,  
11 TO COVER ALL FORESEEABLE COSTS OF SITE RESTORATION.

12 5. GAS DRILLING OPERATIONS SHALL BE CONDUCTED IN A MANNER THAT SHALL  
13 NOT BURDEN ADJACENT LANDOWNERS AND RESIDENTS. NO NOISE AUDIBLE INDOORS  
14 IN RESIDENCES LOCATED ON ADJACENT PROPERTY SHALL BE PERMITTED BETWEEN  
15 THE HOURS OF 8:00 PM AND 8:00 AM ON WEEKDAYS AND 6:00 PM AND 10:00 AM ON  
16 WEEKENDS. SIMILARLY, NIGHT LIGHTING SHALL NOT BE OBTRUSIVE OR DISRUPTIVE  
17 OF LIFE FOR SUCH ADJACENT LANDOWNERS AND RESIDENTS. THE DEPARTMENT SHALL  
18 ENFORCE THE PROVISIONS OF THIS SUBDIVISION BY APPROPRIATE REGULATIONS  
19 INCLUDING A SYSTEM OF FINES, AND SHALL FURTHER HAVE THE POWER TO ISSUE  
20 CEASE AND DESIST ORDERS TO ENFORCE THESE PROTECTIONS AND PROTECT THE  
21 QUIET ENJOYMENT OF LOCAL RESIDENTS.

22 6. LANDOWNERS FORCED INTO A PRODUCTION POOL SHALL BE ENTITLED TO  
23 RECEIVE THE HIGHEST PAYMENT THAT ANY OTHER POOL MEMBER RECEIVES.

24 7. ANY LANDOWNER WHO ENTERS INTO A CONTRACT OR LEASE TO PERMIT THE  
25 DRILLING FOR NATURAL GAS ON SUCH LANDOWNER'S PROPERTY SHALL HAVE A THIR-  
26 TY DAY RIGHT OF RECISSION WITH RESPECT TO SUCH CONTRACT. DURING SUCH  
27 THIRTY DAY PERIOD, SUCH LANDOWNER MAY CANCEL SUCH CONTRACT OR LEASE AT  
28 ANY TIME WITHOUT PENALTY.

29 8. NO WELL PERMIT FOR THE DRILLING OF NATURAL GAS SHALL BE GRANTED FOR  
30 A PERIOD LONGER THAN TEN YEARS. ANY PERMIT UNDER WHICH ACTUAL NATURAL  
31 GAS EXTRACTION IS NOT UNDERTAKEN WITHIN FIVE YEARS SHALL EXPIRE AND BE  
32 DEEMED NULL AND VOID.

33 9. THE DEPARTMENT, IN CONSULTATION WITH THE ATTORNEY GENERAL, SHALL  
34 ISSUE GUIDANCE DOCUMENTS TO LANDOWNERS, WITH RESPECT TO THEIR RIGHTS  
35 WITH RESPECT TO NATURAL GAS DRILLING CONTRACTS AND LEASES. THE DEPART-  
36 MENT IS HEREBY AUTHORIZED TO REQUIRE STANDARD PROVISIONS IN SUCH  
37 CONTRACTS OR LEASES IN ORDER TO PREVENT UNFAIR TREATMENT OF LANDOWNERS.

38 10. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NATURAL GAS DRILLERS  
39 SHALL BE RESPONSIBLE FOR THE COSTS OF ALL ENVIRONMENTAL DAMAGE WHICH  
40 OCCURRED IN THE PROCESS OF DRILLING FOR AND EXTRACTING NATURAL GAS. THE  
41 DEPARTMENT MAY REQUIRE THE PROVISION OF APPROPRIATE FINANCIAL SECURITY  
42 TO ENSURE LANDOWNERS ARE PROTECTED FROM ANY CONTINGENT LIABILITY. SHOULD  
43 DRILLING ACTIVITY LEAD TO DESIGNATION AS A BROWNFIELD SITE, AS DEFINED  
44 IN SUBDIVISION TWO OF SECTION 27-1405 OF THIS CHAPTER, SUCH DRILLER, NOT  
45 THE LANDOWNER, SHALL BE CONSIDERED TO BE PARTY IN THE CHAIN OF RESPONSI-  
46 BILITY.

47 S 23-2909. WATER WITHDRAWALS.

48 ALL SURFACE OR GROUNDWATER WITHDRAWALS OF MORE THAN FIVE THOUSAND  
49 GALLONS A DAY FOR NATURAL GAS DRILLING PURPOSES, OR MORE THAN ONE  
50 PERCENT OF IN STREAM FLOW, SHALL REQUIRE A PERMIT FROM THE DEPARTMENT.  
51 THE DEPARTMENT SHALL ISSUE REGULATIONS GOVERNING SUCH WITHDRAWALS,  
52 INCLUDING PROVISIONS TO ASSURE THAT WATER WITHDRAWALS ARE LIMITED TO  
53 LEVELS THAT DO NOT HARM STREAM ECOLOGY OR FISHERY RESOURCES.

54 S 23-2911. ENFORCEMENT AND FINANCIAL SECURITY.

55 1. NO PERMIT FOR THE DRILLING OF NATURAL GAS SHALL BE GRANTED IF SUCH  
56 APPLICANT HAS FAILED TO MEET HIS ENVIRONMENTAL AND FINANCIAL OBLIGATIONS

1 UNDER A PREVIOUS PERMIT OR IF SUCH APPLICANT HAS UNPAID FINANCIAL  
2 LIABILITIES TO EITHER THE STATE, A LOCAL GOVERNMENT OR A PRIVATE LAND-  
3 OWNER.

4 2. IN DETERMINING WHETHER OR NOT A PERMIT FOR THE DRILLING OF NATURAL  
5 GAS SHALL BE GRANTED, THE DEPARTMENT SHALL CONSIDER THE PRIOR RECORD  
6 UNDER PREVIOUS PERMITS OF THE APPLICANT. APPLICANTS WHO HAVE SHOWN A  
7 PATTERN OF VIOLATION OF PERMIT CONDITIONS OR A LACK OF A PROPER STANDARD  
8 OF CARE IN DRILLING OPERATIONS SHALL NOT BE GRANTED A PERMIT.

9 3. A PERMIT FOR THE DRILLING OF NATURAL GAS SHALL INCLUDE APPLICABLE  
10 LEASE DOCUMENTS BETWEEN THE DRILLING COMPANY AND THE LANDOWNER OR LAND-  
11 OWNERS FOR THE DRILLING SITE FOR WHICH THE APPLICATION IS MADE.

12 4. A PERMIT APPLICATION SHALL INCLUDE A COMPREHENSIVE HYDROLOGICAL  
13 ASSESSMENT OF THE SUBSURFACE STRATA INCLUDING THE POTENTIAL FOR ANY  
14 FISSURING THAT WOULD DRAW HYDRAULIC FRACTURING FLUID, NATURAL GAS OR  
15 OTHER POLLUTANTS INTO WATER BEARING AQUIFER STRATA.

16 5. THE DEPARTMENT SHALL PROVIDE FOR UNANNOUNCED INSPECTIONS OF ALL  
17 NATURAL GAS DRILLING SITES AND FOR THE PROVISION OF SOIL TESTING TO  
18 DETERMINE THE PRESENCE OF UNREPORTED SPILLS.

19 6. THE DEPARTMENT SHALL REQUIRE THAT ALL CASING CONSTRUCTION BE  
20 CARRIED OUT IN THE PRESENCE OF INDEPENDENT QUALITY CONTROL ENGINEERS.  
21 THE DEPARTMENT SHALL HAVE THE AUTHORITY TO SPECIFY STANDARDS FOR CASING  
22 CONSTRUCTION, INCLUDING COMPOSITION OF CONCRETE AND OTHER TECHNICAL  
23 PARAMETERS FOR DEEP WELL CONSTRUCTION TO INSURE MAXIMUM CASING INTEGRITY  
24 AND PREVENT LEAKAGE OF HYDRAULIC FRACTURING COMPOUNDS, NATURAL GAS AND  
25 OTHER SUBSURFACE MATERIALS INTO WATER BEARING STRATA. THE DEPARTMENT  
26 SHALL, OVER THE LIFE OF THE WELL, CARRY OUT PERIODIC INSPECTIONS TO  
27 ENSURE THAT CASING INTEGRITY IS MAINTAINED.

28 S 23-2913. OTHER PROVISIONS.

29 1. THE STATE COMPTROLLER SHALL ANNUALLY AUDIT ALL ROYALTY PAYMENTS TO  
30 THE STATE AND LOCAL GOVERNMENTS, INCLUDING THE GAS PRODUCTION AND SALES  
31 FIGURES ON WHICH THEY ARE BASED, AND SHALL HAVE THE AUTHORITY TO REQUIRE  
32 APPROPRIATE FISCAL REPORTING AND RECORD KEEPING BY BOTH NATURAL GAS  
33 PRODUCERS AND OTHER DEPARTMENTS OF STATE GOVERNMENT CHARGED WITH THEIR  
34 SUPERVISION.

35 2. THE STATE COMPTROLLER SHALL HAVE THE AUTHORITY TO PERIODICALLY  
36 AUDIT PAYMENTS MADE UNDER DRILLING CONTRACTS AND LEASES TO PRIVATE LAND-  
37 OWNERS, INCLUDING THE GAS PRODUCTION AND SALES FIGURES ON WHICH THEY ARE  
38 BASED, TO DETERMINE THAT THEY ARE IN COMPLIANCE WITH THE PROVISIONS OF  
39 THE CONTRACT OR LEASE AND ALL APPLICABLE LAWS.

40 3. THE DEPARTMENT SHALL ESTABLISH AN IMPARTIAL TECHNICAL ADVISORY  
41 COMMITTEE, WHOSE RESEARCH AND WORK SHALL BE SUPPORTED BY PERMIT FEES, TO  
42 REVIEW AND ISSUE GUIDANCE DOCUMENTS ON GAS DRILLING BEST PRACTICES.  
43 SUCH COMMITTEE SHALL INCLUDE AT LEAST ONE REPRESENTATIVE FROM THE  
44 FOLLOWING INTEREST GROUPS: THE ENVIRONMENTAL COMMUNITY; THE PUBLIC  
45 HEALTH COMMUNITY; AND THE GAS DRILLING INDUSTRY, ALONG WITH PERSONS FROM  
46 THE DEPARTMENT OR OTHERS THE DEPARTMENT DEEMS APPROPRIATE. THE DEPART-  
47 MENT MAY REQUIRE COMPLIANCE WITH SUCH PRACTICES AS A CONDITION OF PERMIT  
48 APPROVAL.

49 S 3. This act shall take effect on the one hundred twentieth day after  
50 it shall have become a law, provided, however, that effective immediate-  
51 ly, the addition, amendment and/or repeal of any rule or regulation  
52 necessary for the implementation of this act on its effective date is  
53 authorized to be made and completed on or before such date.