

2697

2011-2012 Regular Sessions

I N S E N A T E

January 28, 2011

Introduced by Sen. AVELLA -- 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 natural gas development using hydraulic fracturing and to repeal certain provisions of such law relating thereto

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

- 1 Section 1. Legislative declarations and purpose. 1. The legislature
2 recognizes that the expansion of natural gas development in the state of
3 New York using hydraulic fracturing poses unique threats to human health
4 and to the environment. The legislature further recognizes that New
5 York's current laws are inadequate to protect against these threats.
6 2. As natural gas development expands, it is the highest priority of
7 this state to protect human health as well as to ensure the safety of
8 irreplaceable natural assets such as safe drinking water, clean air,
9 wildlife, and the aesthetic beauty of the state.
10 3. Hydraulic fracturing utilizes components that are often toxic, that
11 are non-biodegradable, and that are virtually impossible to remove once
12 they enter the natural environment. Many of these hazardous chemicals
13 are known carcinogens and others can cause other life threatening
14 illnesses. Drinking water contamination from hydraulic fracturing can
15 lead to exposure to endocrine disrupting agents and to other chemicals
16 that can cause kidney, liver, heart, blood, brain damage and other
17 hazardous health effects.
18 4. Hydraulic fracturing operations withdraw millions of gallons of
19 water from the ground and surface waters of the state, which are a
20 precious, finite and invaluable resource, upon which there is likely to
21 be an ever-increasing demand for present, new and competing uses. The
22 withdrawal of ground and surface waters of the state should be regulated
23 in a manner that benefits the people of the state and is compatible with

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

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1 long-range water resource planning and with managing such waters in the
2 public trust for the benefit of all New Yorkers.

3 5. Hydraulic fracturing operations result in wastewater that returns
4 to the surface laden with salt, heavy metals, other chemicals and radio-
5 active elements. In other states, this wastewater is often stored in
6 open pits until transported for ultimate disposal. Chemicals evaporate
7 from these open pits, contributing to air pollution. Leaks and spills of
8 chemicals from the trucks and waste pits may cause contamination of
9 surface waters. Fracturing fluid left underground could migrate or seep
10 through fractures in underground formations, cracks in well-bore
11 casings, through abandoned wells, or otherwise to pollute groundwater.
12 Given the increased prevalence of natural gas drilling in the state,
13 these negative effects may increase if the process of natural gas
14 extraction is not carefully and thoughtfully regulated.

15 6. One of the chief environmental and infrastructure assets of the
16 state of New York is its drinking water systems, which play a fundamen-
17 tal role in the economic productivity and public health of the state.
18 The policy of the state with respect to the management of shale gas
19 extraction must be one of zero drinking water risk.

20 7. Furthermore, natural gas exploration must be carried out in a
21 manner that is sensitive to the ecological richness and aesthetic beauty
22 of the state. Widespread, uncontrolled natural gas development using
23 hydraulic fracturing will diminish or destroy the natural beauty of the
24 land and disrupt the natural habitat of wildlife. The legislature finds
25 that natural gas development must be carried out to minimize these
26 effects to the maximum extent possible.

27 8. Natural gas extraction can impose both monetary and non-monetary
28 costs on municipalities and cause property damage or otherwise reduce
29 the property value of private land owners. It is the intention of the
30 legislature that all persons who undertake natural gas development in
31 the state of New York take full responsibility for their actions, and
32 act consistent with local concerns.

33 9. Although natural gas development provides the promise of economic
34 benefit for the state of New York, the state must ensure that the bene-
35 fits outweigh the costs. It is the policy of the state that natural gas
36 development practices will be sustainable, respectful, and safe. This
37 act is intended to ensure that goal is met.

38 S 2. The environmental conservation law is amended by adding a new
39 section 17-0709 to read as follows:

40 S 17-0709. WASTEWATER TREATMENT FACILITIES.

41 NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN SUBDIVISION
42 TWENTY-ONE OF SECTION 17-0105 OF THIS ARTICLE, THE COMMISSIONER SHALL,
43 AFTER HOLDING A PUBLIC HEARING WITH DUE NOTICE, PROMULGATE REGULATIONS
44 ESTABLISHING A STANDARD OF PERFORMANCE FOR THE CONTROL OF THE DISCHARGE
45 OF POLLUTANTS FROM FACILITIES WHICH TREAT WASTEWATER FROM HYDRAULIC
46 FRACTURING OPERATIONS. THIS STANDARD OF PERFORMANCE SHALL REFLECT THE
47 GREATEST DEGREE OF EFFLUENT REDUCTION WHICH THE COMMISSIONER DETERMINES
48 TO BE ACHIEVABLE THROUGH APPLICATION OF THE BEST AVAILABLE DEMONSTRATED
49 CONTROL TECHNOLOGY, PROCESSES, OPERATING METHODS, OR OTHER ALTERNATIVES,
50 INCLUDING, WHERE PRACTICABLE, A STANDARD PERMITTING NO DISCHARGE OF
51 POLLUTANTS. THIS STANDARD OF PERFORMANCE SHALL REMAIN IN EFFECT UNTIL
52 SUCH TIME THAT THE FEDERAL GOVERNMENT DETERMINES THAT A GREATER DEGREE
53 OF EFFLUENT LIMITATION IS ACHIEVABLE BY THIS CATEGORY OF FACILITIES, AT
54 WHICH TIME THIS STANDARD OF PERFORMANCE SHALL BE SUPERSEDED BY SUCH
55 FEDERAL STANDARD.

S 3. Section 23-0101 of the environmental conservation law, as amended by chapter 846 of the laws of 1981 and subdivision 1 as amended by chapter 891 of the laws of 1984, is amended to read as follows:

S 23-0101. Definitions.

As used in this article, unless the context otherwise requires:

1. "AIR POLLUTANT" MEANS VOLATILE ORGANIC COMPOUNDS (VOCs) AS DEFINED AT 40 CFR 51.100(S), HAZARDOUS AIR POLLUTANTS (HAPS) AS DEFINED AT 42 USC S 7412(B) AND 40 CFR 63, NITROGEN OXIDES (NOX), CARBON MONOXIDE (CO), METHANE (CH₄), ETHANE (C₂H₆), PARTICULATE MATTER (PM₁₀ AND PM_{2.5}), OZONE (O₃), LEAD (Pb), SULFUR DIOXIDE (SO₂) AND OTHER AIR CONTAMINANTS AS MAY BE IDENTIFIED BY THE DEPARTMENT.

2. "BEST MANAGEMENT PRACTICES (BMPS)" ARE PRACTICES THAT ARE DESIGNED TO PREVENT OR REDUCE IMPACTS CAUSED BY OIL AND GAS OPERATIONS TO AIR, WATER, SOIL, OR BIOLOGICAL RESOURCES, AND TO MINIMIZE ADVERSE IMPACTS TO PUBLIC HEALTH, SAFETY AND WELFARE, INCLUDING THE ENVIRONMENT AND WILDLIFE RESOURCES.

3. "Buffer zone" means all that area outside and surrounding the underground gas storage reservoir which the department approves as appropriate to protect the integrity of the reservoir, no part of which shall be more than thirty-five hundred linear feet from the boundary thereof.

[2.] 4. "Cavity" means an open or partially open space left after a salt has been solution mined.

5. "CLOSED-LOOP SYSTEM" MEANS A SYSTEM FOR HANDLING OIL OR GAS EXPLORATION, STIMULATION, OR PRODUCTION WASTES, INCLUDING BUT NOT LIMITED TO DRILLING FLUIDS AND CUTTINGS, HYDRAULIC FRACTURING FLOWBACK, PRODUCED WATER, AND RESIDUAL SLUDGES OR BRINES, WITHOUT THE NEED FOR PITS.

[3.] 6. "Commissioner" means the commissioner of environmental conservation.

7. "CONSEQUENCES OF ANY HAZARDOUS DISCHARGE" AS USED IN THIS SECTION MEANS ANY DETRIMENTAL EFFECT TO THE HEALTH, SAFETY, WELFARE, OR AESTHETIC ENJOYMENT OF ANY CITIZEN, RESIDENT, OR VISITOR IN THE STATE BY A HAZARDOUS DISCHARGE.

[4.] 8. "Department" means the department of environmental conservation.

9. "ENVIRONMENTAL DAMAGE" AS USED IN THIS SECTION MEANS DAMAGE TO:

A. ANY WATERS OF THE STATE;

B. ANY LAND SURFACE OR SUBSURFACE STRATA OF THE STATE;

C. ANY AMBIENT AIR WITHIN THE STATE; OR,

D. THE WILDLIFE OR ECOLOGICAL SYSTEMS IN THE LAND, AIR, OR WATERS OF THE STATE.

[5.] 10. "Fund" means the oil and gas [fund as established in section eighty-three-a of the state finance law] ACCOUNT ESTABLISHED UNDER CHAPTER FIFTY-EIGHT OF THE LAWS OF NINETEEN HUNDRED EIGHTY-TWO.

[6.] 11. "Field" means the general area underlaid by one or more pools.

[7.] 12. "Gas" means all natural, manufactured, mixed, and byproduct gas, and all other hydrocarbons not defined as oil in this section.

13. "GROUNDWATER" MEANS WATER IN A SATURATED ZONE OR STRATUM BENEATH THE SURFACE OF LAND OR WATER.

14. "GROUNDWATER WELL" MEANS ANY WELL DESIGNED OR USED FOR THE SOLE PURPOSE OF OBTAINING GROUNDWATER.

15. "HAZARDOUS RELEASE" AS USED IN THIS SECTION MEANS THE RELEASE OF A HAZARDOUS SUBSTANCE.

1 16. "HAZARDOUS SUBSTANCE" MEANS SUBSTANCES WHICH MEET THE FOLLOWING
2 CRITERIA, INCLUDING BUT NOT LIMITED TO THOSE LISTED IN N.Y.C.R.R. S
3 597.2:

4 A. BECAUSE OF THEIR QUANTITY, CONCENTRATION, OR PHYSICAL, CHEMICAL OR
5 INFECTIOUS CHARACTERISTICS CAUSE PHYSICAL INJURY OR ILLNESS WHEN IMPROP-
6 ERLY TREATED, STORED, TRANSPORTED, DISPOSED OF, OR OTHERWISE MANAGED;

7 B. POSE A PRESENT OR POTENTIAL HAZARD TO THE ENVIRONMENT WHEN IMPROP-
8 ERLY TREATED, STORED, TRANSPORTED, DISPOSED OF, OR OTHERWISE MANAGED;

9 C. BECAUSE OF THEIR TOXICITY OR CONCENTRATION WITHIN BIOLOGICAL
10 CHAINS, PRESENT A DEMONSTRATED THREAT TO BIOLOGICAL LIFE CYCLES WHEN
11 RELEASED INTO THE ENVIRONMENT;

12 D. HAVE AN ORAL LD (RAT) TOXICITY OF LESS THAN FIFTY MILLIGRAMS PER
13 KILOGRAM; OR HAVE AN INHALATION LC (RAT) TOXICITY OF LESS THAN TWO
14 MILLIGRAMS PER LITER; OR HAVE A DERMAL LD (RABBIT) TOXICITY OF LESS THAN
15 TWO HUNDRED MILLIGRAMS PER KILOGRAM; OR

16 E. CAUSE OR ARE CAPABLE OF CAUSING DEATH, SERIOUS ILLNESS OR SERIOUS
17 PHYSICAL INJURY TO ANY PERSON OR PERSONS AS A CONSEQUENCE OF RELEASE
18 INTO THE ENVIRONMENT.

19 [8.] 17. "Local agency" means any local agency, board, authority,
20 school district, commission or governing body, including any county,
21 city, town, village or other political subdivision of the state.

22 [9.] 18. "Metered" means the physical measurement of gas by means
23 acceptable to the department.

24 [10.] 19. "Oil" means crude petroleum oil and all other hydrocarbons,
25 regardless of gravity, that are produced at the wellhead in liquid form
26 by ordinary production methods and that are not the result of condensa-
27 tion of gas.

28 20. "OIL AND GAS FACILITY" MEANS EQUIPMENT, IMPROVEMENTS, OR PHYSICAL
29 STRUCTURES, INCLUDING ANY OIL OR GAS WELLS, USED OR INSTALLED AT AN OIL
30 AND GAS LOCATION FOR THE EXPLORATION, PRODUCTION, WITHDRAWAL, GATHERING,
31 TREATMENT, OR PROCESSING OF OIL OR NATURAL GAS.

32 21. "OIL AND GAS LOCATION" MEANS A DEFINABLE AREA WHERE AN OPERATOR
33 HAS DISTURBED OR INTENDS TO DISTURB THE LAND SURFACE IN ORDER TO LOCATE
34 AN OIL AND GAS FACILITY.

35 22. "OIL AND GAS OPERATIONS" MEANS EXPLORATION FOR OIL AND GAS,
36 INCLUDING THE CONDUCT OF SEISMIC OPERATIONS AND THE DRILLING OF TEST
37 BORES; THE SITING, DRILLING, DEEPENING, RECOMPLETION, REWORKING, OR
38 ABANDONMENT OF AN OIL AND GAS WELL, UNDERGROUND INJECTION WELL, OR GAS
39 STORAGE WELL; PRODUCTION OPERATIONS RELATED TO ANY SUCH WELL INCLUDING
40 THE INSTALLATION OF FLOWLINES AND GATHERING SYSTEMS; THE GENERATION,
41 TRANSPORTATION, STORAGE, TREATMENT, OR DISPOSAL OF EXPLORATION AND
42 PRODUCTION WASTES; AND ANY CONSTRUCTION, SITE PREPARATION, OR RECLAMA-
43 TION ACTIVITIES ASSOCIATED WITH SUCH OPERATIONS.

44 23. "OPERATOR" MEANS ANY PERSON WHO EXERCISES THE RIGHT TO CONTROL THE
45 CONDUCT OF, OR WHO CONDUCTS, OIL AND GAS OPERATIONS.

46 [11.] 24. "Owner" means the person who has the right to drill into and
47 produce from a pool or a salt deposit and to appropriate the oil, gas or
48 salt he produces either for himself or others, or for himself and
49 others.

50 25. "PIT" MEANS ANY NATURAL OR MAN-MADE DEPRESSION IN THE GROUND USED
51 FOR THE PURPOSE OF RETAINING OR STORING SUBSTANCES ASSOCIATED WITH OIL
52 AND GAS OPERATIONS.

53 [12.] 26. "Person" means and includes any natural person, corporation,
54 association, partnership, receiver, trustee, executor, administrator,
55 guardian, fiduciary, or other representative of any kind, and includes

1 any department, agency or instrumentality of the state or any of its
2 governmental subdivisions.

3 [13.] 27. "Plug and abandon" means the plugging, replugging if neces-
4 sary, and abandonment of a well bore including the placing of all bridg-
5 es, plugs, and fluids therein and the restoration and reclamation of the
6 surface in the immediate vicinity to a reasonable condition consistent
7 with the adjacent terrain.

8 [14.] 28. "Pool" means an underground reservoir containing a common
9 accumulation of oil or gas or both; each zone of a structure which is
10 completely separated from any other zone in the same structure is a
11 pool.

12 29. "POTENTIAL ENVIRONMENTAL JUSTICE AREA" MEANS A MINORITY OR
13 LOW-INCOME COMMUNITY THAT MAY BEAR A DISPROPORTIONATE SHARE OF THE NEGA-
14 TIVE ENVIRONMENTAL CONSEQUENCES RESULTING FROM INDUSTRIAL, MUNICIPAL,
15 AND COMMERCIAL OPERATIONS OR THE EXECUTION OF FEDERAL, STATE, LOCAL, AND
16 TRIBAL PROGRAMS AND POLICIES.

17 [15.] 30. "Producer" means the owner of a well or wells capable of
18 producing oil, gas, or salt; or any salt or hydrocarbon mixture.

19 [16.] 31. "Product" means any commodity made from oil or gas and
20 includes refined crude oil, crude tops, topped crude, processed crude,
21 processed crude petroleum, residue from crude petroleum, cracking stock,
22 uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil,
23 casinghead gasoline, natural-gas gasoline, kerosene, benzine, wash oil,
24 waste oil, blended gasoline, lubricating oil, blends or mixtures of oil
25 with one or more liquid products or by-products derived from oil or gas,
26 and blends or mixtures of two or more liquid products or by-products
27 derived from oil or gas, whether herein enumerated or not.

28 32. "RELEASE" MEANS ANY SPILLING, LEAKING, PUMPING, POURING, EMIT-
29 TING, EMPTYING, DISCHARGING, ESCAPING, LEACHING, DUMPING OR DISCHARGING
30 INTO THE ENVIRONMENT (INCLUDING THE ABANDONMENT OR DISCARDING OF
31 BARRELS, CONTAINERS, AND OTHER CLOSED RECEPTACLES).

32 [17.] 33. "Reservoir" means any underground reservoir, natural or
33 artificial cavern or geologic dome, sand or stratigraphic trap, whether
34 or not previously occupied by or containing oil or gas.

35 [18.] 34. "Salt" means sodium chloride, evaporite or other water solu-
36 ble minerals, either in solution or as a solid or crystalline material
37 in a pure state or as a mixture.

38 35. "SITE" MEANS THE LOCATION OF ANY OIL AND GAS OPERATION, INCLUD-
39 ING BUT NOT LIMITED TO WELLS AND WELL PADS, STORAGE FACILITIES, NATURAL
40 GAS COMPRESSOR STATIONS, AND CENTRALIZED IMPOUNDMENTS.

41 [19.] 36. "Solution mining" means the dissolving of an underground
42 salt by water to produce a brine for transport to another underground or
43 surface location for sale, processing or storage.

44 37. "SURFACE WATER" MEANS ANY WATER OCCURRING ON THE EARTH'S SURFACE
45 IN THE FORM OF A STREAM, RIVER, POND, LAKE, WETLAND, OCEAN, ARTIFICIAL
46 CHANNEL OR RESERVOIR, OR OTHER SURFACE WATER BODY.

47 [20.] 38. "Waste" means

48 a. Physical waste, as that term is generally understood in the oil and
49 gas industry;

50 b. The inefficient, excessive or improper use of, or the unnecessary
51 dissipation of reservoir energy;

52 c. The locating, spacing, drilling, equipping, operating, or producing
53 of any oil or gas well or wells in a manner which causes or tends to
54 cause reduction in the quantity of oil or gas ultimately recoverable
55 from a pool under prudent and proper operations, or which causes or

tends to cause unnecessary or excessive surface loss or destruction of oil or gas;

d. The inefficient storing of oil or gas; and

e. The flaring of gas produced from an oil or condensate well after the department has found that the use of the gas, on terms that are just and reasonable, is, or will be economically feasible within a reasonable time.

S 4. Section 23-0303 of the environmental conservation law, as amended by chapter 846 of the laws of 1981, is amended to read as follows:

S 23-0303. Administration of article.

1. Except to the extent that the administration of this article is specifically entrusted to other agencies or officers of the state by its provisions, such administration shall be by the department. Geological services for the department in connection with the administration of this article shall be provided by or in cooperation with the state geologist. Within appropriations therefor the department is authorized to employ such personnel as may be necessary for the administration of this article and may also employ or secure the services of such engineering, technical and other consultants as it may require from time to time.

2. The provisions of this article shall supersede all local laws or ordinances relating to the regulation of the oil, gas and solution mining industries; [but shall not supersede local government jurisdiction over local roads or the rights of local governments under the real property tax law] PROVIDED, HOWEVER, THAT NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO PREVENT ANY LOCAL GOVERNMENT FROM:

A. ENACTING OR ENFORCING LOCAL LAWS OR ORDINANCES OF GENERAL APPLICABILITY, EXCEPT THAT SUCH LOCAL LAWS OR ORDINANCES SHALL NOT REGULATE OIL AND GAS OPERATIONS REGULATED BY STATE STATUTE OR REGULATION; OR

B. ENACTING OR ENFORCING LOCAL LAWS OR ORDINANCES RELATED TO THE REGULATION AND MANAGEMENT OF LOCAL ROADS, SUCH AS INGRESS AND EGRESS TO PUBLIC THOROUGHFARES CONTROLLED BY THE LOCAL GOVERNMENT; OR

C. ENACTING OR ENFORCING LAWS PURSUANT TO THE RIGHTS OF LOCAL GOVERNMENTS UNDER THE REAL PROPERTY TAX LAW; OR

D. ENFORCING ANY REQUIREMENT CONTAINED IN ANY OIL OR GAS PERMIT ISSUED BY THE STATE; OR

E. ENACTING OR ENFORCING LOCAL ZONING ORDINANCES OR LAWS THAT DETERMINE PERMISSIBLE USES IN ZONING DISTRICTS, INCLUDING WHETHER OIL AND GAS FACILITIES ARE PERMISSIBLE WITHIN A PARTICULAR ZONING DISTRICT. WHERE AN OIL AND GAS FACILITY IS DESIGNATED A PERMISSIBLE USE IN A ZONING DISTRICT AND ALLOWED BY SPECIAL USE PERMIT, CONDITIONS PLACED ON SUCH SPECIAL USE PERMITS SHALL BE LIMITED TO THE FOLLOWING:

I. REQUIREMENTS AND CONDITIONS CONCERNING SETBACK FROM PROPERTY BOUNDARIES, SURFACE WATERS, GROUNDWATER WELLS, HOMES OR PRIVATE RESIDENCES, CHURCHES, SCHOOLS, AND OTHER PUBLIC FACILITIES, AND PUBLIC THOROUGHFARE RIGHTS-OF-WAY;

II. REQUIREMENTS AND CONDITIONS CONCERNING NATURAL OR MAN-MADE BARRIERS TO RESTRICT ACCESS FROM OIL AND GAS FACILITIES, IF REQUIRED; AND

III. DUST, NOISE, VIBRATION, OR LIGHT LIMITATIONS, AND REGULATION OF HOURS OF OPERATION;

3. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, LOCAL LAWS AND ORDINANCES REGULATING ZONING, INCLUDING CONDITIONS IN SPECIAL USE PERMITS THAT IMPOSE SETBACKS, THE REQUIREMENT OF NATURAL OR MANMADE BARRIERS, OR LIMITATIONS ON DUST, NOISE, VIBRATION, LIGHT, OR HOURS OF OPERATION, DO NOT CONSTITUTE THE REGULATION OF OIL AND GAS OPERATIONS REGULATED BY STATE STATUTE OR REGULATION.

1 4. IN ORDER TO FACILITATE A MUNICIPALITY'S ABILITY TO EXERCISE ITS
2 AUTHORITY UNDER PARAGRAPH D OF SUBDIVISION TWO OF THIS SECTION, THE
3 DEPARTMENT SHALL PROVIDE EVERY MUNICIPALITY WITH A COPY OF THE PERMIT OF
4 EACH WELL LOCATED OR PERMITTED TO BE LOCATED WITHIN ITS BOUNDARIES.

5 [3.] 5. a. The commissioner shall accept from municipalities requests
6 for funds from the oil and gas fund to reimburse the municipality for
7 costs incurred in repairing damages to municipal land or property. Such
8 requests shall include such explanatory material and documentation as
9 the commissioner may require.

10 b. The commissioner and director of the budget, may recommend payment
11 to the municipality to satisfy the request for reimbursement upon find-
12 ing that:

13 (1) The municipality has made a bona fide effort to seek relief and
14 recover its costs from those deemed to be responsible and any other
15 appropriate avenues, but has been unsuccessful;

16 (2) The damage was a direct result of activities regulated under this
17 article and that the amount of funds requested is reasonable in view of
18 such damages; and

19 (3) The costs were incurred after the effective date of this subdivi-
20 sion.

21 S 5. Paragraph d of subdivision 8 of section 23-0305 of the environ-
22 mental conservation law, as amended by chapter 846 of the laws of 1981,
23 is amended to read as follows:

24 d. Require the drilling, casing, operation, plugging and replugging of
25 wells and reclamation of surrounding land in accordance with rules and
26 regulations of the department in such manner as to prevent or remedy
27 [the following] ANY ACT RESULTING IN ENVIRONMENTAL DAMAGE, including but
28 not limited to: the escape of oil, gas, brine or water out of one stra-
29 tum into another; the intrusion of water into oil or gas strata other
30 than during enhanced recovery operations; the pollution of fresh water
31 supplies by oil, gas, salt water, DRILLING FLUIDS, HYDRAULIC FRACTURING
32 FLUIDS or other contaminants; and blowouts, cavings, seepages and fires.
33 SUCH RULES AND REGULATIONS SHALL REGULATE THE TYPE, VOLUME, AND CONCEN-
34 TRATION OF ADDITIVES FOR THE PROTECTION OF HUMAN HEALTH AND THE ENVIRON-
35 MENT; AND SUCH REGULATIONS SHALL PROHIBIT THE USE OF DRILLING FLUIDS OR
36 HYDRAULIC FRACTURING FLUIDS CONTAINING ANY CHEMICAL SUBSTANCE THAT UPON
37 EXPOSURE, INGESTION, INHALATION OR ASSIMILATION INTO ANY ORGANISM,
38 EITHER DIRECTLY FROM THE ENVIRONMENT, INCLUDING FROM DRINKING WATER, OR
39 INDIRECTLY THROUGH FOOD CHAINS, WILL, ON THE BASIS OF INFORMATION AVAIL-
40 ABLE TO THE DEPARTMENT, CAUSE DEATH, DISEASE, BEHAVIORAL ABNORMALITIES,
41 CANCER, GENETIC MUTATIONS, ENDOCRINE DISRUPTION, PHYSIOLOGICAL MALFUNC-
42 TIONS, INCLUDING MALFUNCTIONS IN REPRODUCTION, OR PHYSICAL DEFORMATIONS,
43 IN SUCH ORGANISMS OR THEIR OFFSPRING, INCLUDING BUT NOT LIMITED TO:
44 BENZENE AND ANY CHEMICAL SUBSTANCE THAT HAS BEEN IDENTIFIED PURSUANT TO
45 THE FEDERAL TOXIC SUBSTANCES CONTROL ACT AS PERSISTENT, BIOACCUMULATIVE
46 AND TOXIC.

47 S 6. Section 23-0305 of the environmental conservation law is amended
48 by adding a new subdivision 15 to read as follows:

49 15. THE DEPARTMENT SHALL PROMULGATE REGULATIONS REQUIRING DISCLOSURE
50 OF CHEMICALS USED IN OIL AND GAS WELL DRILLING AND HYDRAULIC FRACTURING,
51 INCLUDING BUT NOT LIMITED TO THE FOLLOWING REQUIREMENTS:

52 A. NO PERMIT TO DRILL, DEEPEN, PLUG BACK, OR CONVERT A WELL SHALL BE
53 ISSUED UNDER THIS ARTICLE UNTIL THE DEPARTMENT OBTAINS FROM THE PERMIT
54 APPLICANT A COMPLETE LIST OF THE CHEMICAL CONSTITUENTS OF EACH ADDITIVE
55 THAT MAY BE USED IN DRILLING OR FRACTURING THE WELL SPECIFIED IN THE
56 APPLICATION;

1 B. WHENEVER THE DEPARTMENT OR A TREATING PHYSICIAN OR NURSE, DETER-
2 MINES THAT A MEDICAL EMERGENCY EXISTS AS A RESULT OF OIL OR GAS EXPLORA-
3 TION, STIMULATION, OR PRODUCTION ACTIVITIES CONDUCTED BY A WELL DRILLING
4 PERMIT HOLDER OR ITS SUBCONTRACTORS AND THAT THE DISCLOSURE OF PROPRIE-
5 TARY CHEMICAL INFORMATION, INCLUDING THE IDENTITY OF ANY CHEMICAL OR THE
6 FORMULA OF ANY ADDITIVE USED IN DRILLING OR HYDRAULIC FRACTURING OF A
7 PERMITTED OIL OR GAS WELL, MAY BE NECESSARY FOR EMERGENCY OR FIRST-AID
8 TREATMENT, THE WELL DRILLING PERMIT HOLDER OR ANY SUBCONTRACTOR IN
9 POSSESSION OR CONTROL OF THE PROPRIETARY INFORMATION SHALL IMMEDIATELY
10 DISCLOSE THE PROPRIETARY INFORMATION REQUESTED TO THE DEPARTMENT OR THAT
11 TREATING PHYSICIAN OR NURSE, REGARDLESS OF THE EXISTENCE OF A WRITTEN
12 STATEMENT OF NEED OR A CONFIDENTIALITY AGREEMENT. THE PERMIT HOLDER OR
13 SUBCONTRACTOR MAY REQUEST A WRITTEN STATEMENT OF NEED AND A CONFIDEN-
14 TIALITY AGREEMENT AS SOON THEREAFTER AS CIRCUMSTANCES PERMIT. IN THE
15 EVENT THE PERMIT HOLDER OR SUBCONTRACTOR FAILS TO IMMEDIATELY DISCLOSE
16 SUCH PROPRIETARY INFORMATION, THE DEPARTMENT SHALL MAKE AVAILABLE TO A
17 TREATING PHYSICIAN OR NURSE ALL INFORMATION WITHIN ITS POSSESSION RELAT-
18 ING TO THE INGREDIENTS OF ANY CHEMICAL OR THE FORMULA OF ANY ADDITIVE
19 USED IN DRILLING OR HYDRAULIC FRACTURING UTILIZED IN A PERMITTED OIL OR
20 GAS WELL SUSPECTED OF CAUSING SUCH EMERGENCY;

21 C. EACH PERMIT HOLDER SHALL NOTIFY THE DEPARTMENT OF ANY CHANGES TO
22 THE CHEMICAL CONSTITUENTS USED IN DRILLING OR FRACTURING PRIOR TO THE
23 FLUID'S USE IN THE DRILLING OR FRACTURING PROCESS.

24 D. THE DEPARTMENT SHALL MAKE ANY DISCLOSURES FILED UNDER PARAGRAPH A
25 OR C OF THIS SUBDIVISION AVAILABLE TO THE PUBLIC AND SHALL POST SUCH
26 INFORMATION ON THE DEPARTMENT'S WEBSITE.

27 S 7. Section 23-0313 of the environmental conservation law is amended
28 by adding four new subdivisions 3, 4, 5 and 6 to read as follows:

29 3. THE DEPARTMENT SHALL PROMULGATE REGULATIONS REQUIRING:

30 A. OIL AND GAS WELL OWNERS OR OPERATORS TO GIVE NOTICE TO THE DEPART-
31 MENT, LOCAL HEALTH DEPARTMENT AND RESPONDING EMERGENCY AGENCIES, IN
32 PERSON OR BY SUCH MEANS AS THE DEPARTMENT SHALL SPECIFY, IMMEDIATELY
33 AFTER THE RELEASE OF ANY FUEL, HAZARDOUS CHEMICAL OR WASTE STORED AT OR
34 GENERATED BY AN OIL AND GAS FACILITY OR USED IN WELL DRILLING OR HYDRAU-
35 LIC FRACTURING OPERATIONS.

36 B. NOTICE REQUIRED UNDER PARAGRAPH A OF THIS SUBDIVISION SHALL INCLUDE
37 EACH OF THE FOLLOWING (TO THE EXTENT KNOWN AT THE TIME OF THE NOTICE AND
38 SO LONG AS NO DELAY IN RESPONDING TO THE RELEASE RESULTS):

39 I. THE CHEMICAL NAME OR IDENTITY OF ANY SUBSTANCE INVOLVED IN THE
40 RELEASE; AND

41 II. AN ESTIMATE OF THE QUANTITY OF ANY SUCH SUBSTANCE THAT WAS
42 RELEASED INTO THE ENVIRONMENT; AND

43 III. THE TIME AND DURATION OF THE RELEASE; AND

44 IV. THE MEDIUM OR MEDIA INTO WHICH THE RELEASE OCCURRED; AND

45 V. ANY KNOWN OR ANTICIPATED ACUTE OR CHRONIC HEALTH RISKS ASSOCIATED
46 WITH THE RELEASE AND, WHERE APPROPRIATE, ADVICE REGARDING MEDICAL ATTEN-
47 TION NECESSARY FOR EXPOSED INDIVIDUALS; AND

48 VI. PROPER PRECAUTIONS AND REMEDIAL ACTIONS TO TAKE AS A RESULT OF THE
49 RELEASE; AND

50 VII. THE NAME AND TELEPHONE NUMBER OF THE PERSON OR PERSONS TO BE
51 CONTACTED FOR FURTHER INFORMATION.

52 C. AS SOON AS PRACTICABLE AFTER A RELEASE THAT REQUIRES NOTICE UNDER
53 PARAGRAPH A OF THIS SUBDIVISION, SUCH OWNER OR OPERATOR SHALL PROVIDE A
54 WRITTEN FOLLOW-UP EMERGENCY NOTICE (OR NOTICES, AS MORE INFORMATION
55 BECOMES AVAILABLE) SETTING FORTH AND UPDATING THE INFORMATION REQUIRED
56 UNDER PARAGRAPH B OF THIS SUBDIVISION, AND INCLUDING:

1 I. ACTIONS TAKEN TO RESPOND TO AND CONTAIN THE RELEASE;
2 II. ANY KNOWN OR ANTICIPATED ACUTE OR CHRONIC HEALTH RISKS ASSOCIATED
3 WITH THE RELEASE; AND

4 III. ADVICE REGARDING MEDICAL ATTENTION NECESSARY FOR EXPOSED INDIVID-
5 UALS.

6 D. THE DEPARTMENT SHALL POST ALL CHEMICAL SPILL REPORT INFORMATION
7 REFERENCED IN PARAGRAPHS A, B AND C OF THIS SUBDIVISION ON THE DEPART-
8 MENT'S WEBSITE.

9 4. THE DEPARTMENT SHALL PROMULGATE RULES AND REGULATIONS REQUIRING
10 THAT OWNERS OR OPERATORS OF WELLS GIVE WRITTEN NOTICE TO ALL PERSONS
11 RESIDING WITHIN ONE HALF MILE OF ANY PROPOSED WELL SITE TWO WEEKS BEFORE
12 DRILLING OR HYDRAULIC FRACTURING OPERATIONS BEGIN. OWNERS OR OPERATORS
13 OF WELLS SHALL PUBLISH A NOTICE IN A LOCAL NEWSPAPER CIRCULATING IN THE
14 AREA OF THE PROPOSED WELL SITE TWO WEEKS BEFORE DRILLING OR HYDRAULIC
15 FRACTURING OPERATIONS BEGIN. WITHIN TWO BUSINESS DAYS OF GIVING NOTICE
16 UNDER THIS SECTION, A LIST OF RECIPIENTS AND A COPY OF ALL NOTICES, WITH
17 PROOF OF DELIVERY IN COMPLIANCE WITH THIS SECTION, SHALL BE SUBMITTED TO
18 THE DEPARTMENT FOR INCLUSION IN THE DRILLING PERMIT FILE. COPIES OF ALL
19 NOTICES SHALL BE PUBLICLY AVAILABLE.

20 5. THE DEPARTMENT SHALL DEVELOP MAPS OF ALL KNOWN OIL AND GAS WELLS,
21 INCLUDING ACTIVE AND ABANDONED WELLS, IN NEW YORK USING A GEOGRAPHIC
22 INFORMATION SYSTEM AND MAKE THOSE MAPS SYSTEM PUBLICLY AVAILABLE ON THE
23 DEPARTMENT'S WEBSITE.

24 6. THE DEPARTMENT SHALL CREATE AND OPERATE AN EMERGENCY 1-800 TELE-
25 PHONE NUMBER FOR PUBLIC USE IN IDENTIFYING AND REPORTING ANY OIL OR
26 NATURAL GAS-RELATED INCIDENTS TO THE DEPARTMENT.

27 S 8. The environmental conservation law is amended by adding a new
28 section 23-0315 to read as follows:

29 S 23-0315. BEST MANAGEMENT PRACTICES.

30 1. THE COMMISSIONER SHALL NOT PERMIT ANY OWNER OR OPERATOR TO COMMENCE
31 OPERATIONS TO DRILL, DEEPEN, PLUG BACK OR CONVERT A WELL FOR EXPLORA-
32 TION, PRODUCTION, STORAGE OR DISPOSAL UNLESS SUCH OPERATIONS IMPLEMENT
33 BEST MANAGEMENT PRACTICES.

34 2. THE COMMISSIONER SHALL INCLUDE ALL APPLICABLE BEST MANAGEMENT PRAC-
35 TICES AS CONDITIONS OF EACH PERMIT TO DRILL, DEEPEN, PLUG BACK OR
36 CONVERT A WELL.

37 3. EVERY THREE YEARS, AFTER HOLDING A PUBLIC HEARING WITH DUE NOTICE,
38 THE COMMISSIONER SHALL PUBLISH AN INVENTORY OF BEST MANAGEMENT PRACTICES
39 THAT MAY BE INCLUDED AS SPECIAL CONDITIONS OF PERMITS FOR NATURAL GAS
40 DRILLING, DEPENDING UPON SITE-SPECIFIC ANALYSIS OF A PROPOSED WELL SITE
41 AND AVAILABLE CONTROL TECHNOLOGIES. ANY BEST MANAGEMENT PRACTICES THAT
42 MAY BE APPLIED TO ALL DRILLING PERMITS SHALL BE PROMULGATED AS REGU-
43 LATIONS IN COMPLIANCE WITH THE REQUIREMENTS OF THE STATE ADMINISTRATIVE
44 PROCEDURE ACT.

45 S 9. The environmental conservation law is amended by adding a new
46 section 23-0317 to read as follows:

47 S 23-0317. LIABILITY.

48 1. LIABLE PARTIES. THE FOLLOWING PERSONS SHALL BE LIABLE UNDER SUBDI-
49 VISION TWO OF THIS SECTION:

50 A. THE OWNER OF AN OIL AND GAS FACILITY OR PIPELINE;

51 B. THE OPERATOR OF AN OIL AND GAS FACILITY OR PIPELINE;

52 C. ANY PERSON WHO BY CONTRACT, AGREEMENT, OR OTHERWISE ARRANGED FOR
53 THE TRANSPORT OF OIL OR GAS, OR FOR THE TRANSPORT, DISPOSAL, OR TREAT-
54 MENT OF A HAZARDOUS SUBSTANCE USED IN OIL OR GAS OPERATIONS, INCLUDING
55 HAZARDOUS HYDRAULIC FRACTURING FLUID OR ANY HAZARDOUS COMPONENTS THERE-
56 OF; AND,

1 D. ANY PERSON WHO ACCEPTS ANY HAZARDOUS SUBSTANCE USED IN OIL AND GAS
2 OPERATIONS FOR RECYCLING, DISPOSAL, OR TREATMENT.

3 2. LIABILITY. ANY LIABLE PARTY MENTIONED IN SUBDIVISION ONE OF THIS
4 SECTION SHALL BE LIABLE FOR ANY ENVIRONMENTAL DAMAGE FROM, OR THE CONSE-
5 QUENCES OF ANY HAZARDOUS RELEASE FROM, AN OIL AND GAS FACILITY,
6 WELL-BORE, PIPELINE, OR FROM ANY STORAGE OR DISPOSAL AREA FOR OIL, GAS,
7 OR A HAZARDOUS SUBSTANCE USED IN OIL OR GAS OPERATIONS INCLUDING:

8 A. ALL COSTS OF REMOVAL OR REMEDIAL ACTION INCURRED BY THE STATE OR
9 ANY SUBDIVISION THEREOF;

10 B. ANY OTHER NECESSARY COSTS OF RESPONSE OR MITIGATION INCURRED BY ANY
11 OTHER PERSON AUTHORIZED BY THE STATE TO RESPOND TO THE CONTAMINATION OR
12 MITIGATE THE EFFECTS THEREOF;

13 C. DAMAGES FOR INJURY TO, DESTRUCTION OF, OR LOSS OF NATURAL
14 RESOURCES, INCLUDING THE REASONABLE COSTS OF ASSESSING SUCH INJURY,
15 DESTRUCTION, OR LOSS RESULTING FROM SUCH A RELEASE; AND,

16 D. ALL DIRECT COSTS PROXIMATELY CAUSED BY THE ENVIRONMENTAL DAMAGE OR
17 THE CONSEQUENCES OF ANY HAZARDOUS RELEASE TO PRIVATE PARTIES, INCLUDING
18 BUT NOT LIMITED TO DAMAGE TO PROPERTY OWNED BY SUCH PARTIES OR INJURY TO
19 PERSONAL HEALTH OR WELFARE.

20 3. LIMITATION OF LIABILITY. NOTHING IN THIS SECTION SHOULD BE
21 CONSTRUED AS LIMITING THE LIABILITY OF ANY LIABLE PARTY IDENTIFIED IN
22 SUBDIVISION ONE OF THIS SECTION AS AGAINST ANY PRIVATE PARTY IN A CIVIL
23 ACTION.

24 4. NATURAL RESOURCES LIABILITY. A. IN THE EVENT OF AN INJURY TO,
25 DESTRUCTION OF, OR LOSS OF NATURAL RESOURCES UNDER PARAGRAPH C OF SUBDI-
26 VISION TWO OF THIS SECTION, LIABILITY SHALL BE TO THE STATE OF NEW YORK;
27 PROVIDED, HOWEVER, THAT NO LIABILITY TO THE STATE OF NEW YORK SHALL BE
28 IMPOSED UNDER PARAGRAPH C OF SUBDIVISION TWO OF THIS SECTION, WHERE THE
29 PARTY SOUGHT TO BE CHARGED HAS DEMONSTRATED THAT THE DAMAGES TO NATURAL
30 RESOURCES COMPLAINED OF WERE SPECIFICALLY IDENTIFIED AS AN IRREVERSIBLE
31 OR IRRETRIEVABLE COMMITMENT OF NATURAL RESOURCES IN AN ENVIRONMENTAL
32 IMPACT STATEMENT, OR OTHER COMPARABLE ENVIRONMENTAL ANALYSIS, AND THE
33 DECISION TO GRANT A PERMIT OR LICENSE AUTHORIZES SUCH COMMITMENT OF
34 NATURAL RESOURCES, AND THE FACILITY OR PROJECT WAS OTHERWISE OPERATING
35 WITHIN THE TERMS OF ITS PERMIT OR LICENSE.

36 B. THE COMMISSIONER, OR ANOTHER REPRESENTATIVE AUTHORIZED BY THE
37 GOVERNOR OF NEW YORK, SHALL ACT ON BEHALF OF THE PUBLIC AS TRUSTEE OF
38 SUCH NATURAL RESOURCES TO RECOVER FOR SUCH DAMAGES. SUMS RECOVERED BY
39 THE COMMISSIONER AS TRUSTEE UNDER THIS SUBSECTION SHALL BE RETAINED BY
40 THE TRUSTEE, WITHOUT FURTHER APPROPRIATION, FOR USE ONLY TO RESTORE,
41 REPLACE, OR ACQUIRE THE EQUIVALENT OF SUCH NATURAL RESOURCES. THE MEAS-
42 URE OF DAMAGES IN ANY ACTION UNDER PARAGRAPH C OF SUBDIVISION ONE OF
43 THIS SECTION SHALL NOT BE LIMITED BY THE SUMS WHICH CAN BE USED TO
44 RESTORE OR REPLACE SUCH RESOURCES.

45 5. FINANCIAL RESPONSIBILITY. A. ANY OWNER OR OPERATOR OF A WELL OR
46 WELLS MUST, BEFORE COMMENCEMENT OF OPERATIONS, POST A LIABILITY BOND OR
47 HOLD LIABILITY INSURANCE COVERAGE FOR EACH WELL OWNED OR OPERATED.

48 B. THE LIABILITY BOND OR INSURANCE REQUIRED BY PARAGRAPH A OF THIS
49 SUBDIVISION SHALL BE IN SUCH FORM AS THE DEPARTMENT BY REGULATION SHALL
50 REQUIRE AND IN SUCH AMOUNT AS THE DEPARTMENT SHALL DEEM TO BE REASONABLY
51 SUFFICIENT TO CORRECT, REPAIR OR REMEDY TO THE SATISFACTION OF THE
52 DEPARTMENT ANY ENVIRONMENTAL DAMAGE OR HAZARDOUS DISCHARGE RESULTING
53 FROM OIL OR GAS EXPLORATION OR PRODUCTION. HOWEVER, FOR WELLS LESS THAN
54 TWO THOUSAND FIVE HUNDRED FEET IN DEPTH OR LENGTH, A MINIMUM OF FIVE
55 THOUSAND FIVE HUNDRED DOLLARS PER WELL WILL BE REQUIRED TO SATISFY THIS
56 SECTION AND FOR WELLS BETWEEN TWO THOUSAND FIVE HUNDRED FEET AND SIX

1 THOUSAND FEET IN DEPTH OR LENGTH, TEN THOUSAND FIVE HUNDRED DOLLARS PER
2 WELL WILL BE REQUIRED. WELLS GREATER THAN SIX THOUSAND FEET IN DEPTH OR
3 LENGTH AND FOR WHICH HYDRAULIC FRACTURING FLUID SHALL BE USED, WILL
4 REQUIRE THAT THE OPERATOR PROVIDE ADDITIONAL FINANCIAL SECURITY OF TWO
5 HUNDRED FIFTY THOUSAND DOLLARS, PROVIDED HOWEVER THE DEPARTMENT MAY
6 REQUIRE AN ADDITIONAL BOND OR FINANCIAL SECURITY IN AN AMOUNT SUFFICIENT
7 TO COVER POTENTIAL REMEDIATION COSTS ASSOCIATED WITH CONTAMINATION OF
8 THE ENVIRONMENT.

9 C. THE LIABILITY BOND OR INSURANCE REQUIRED BY PARAGRAPH A OF THIS
10 SUBDIVISION SHALL BE HELD FOR THE DURATION OF OPERATIONS.

11 D. AFTER OPERATIONS HAVE CEASED, ANY OWNER OR OPERATOR OF A WELL OR
12 WELLS SHALL POST A LIABILITY BOND OR HOLD LIABILITY INSURANCE FOR EACH
13 WELL OWNED OR OPERATED.

14 E. THE LIABILITY BOND OR INSURANCE REQUIRED BY PARAGRAPH D OF THIS
15 SUBDIVISION SHALL BE IN SUCH FORM AS THE DEPARTMENT BY REGULATION SHALL
16 REQUIRE AND IN SUCH AMOUNT AS THE DEPARTMENT SHALL DEEM SUFFICIENT TO
17 CORRECT, REPAIR, OR REMEDY TO THE SATISFACTION OF THE DEPARTMENT ANY
18 ENVIRONMENTAL DAMAGE OR HAZARDOUS DISCHARGE RESULTING FROM MOVEMENT OF
19 ANY HAZARDOUS SUBSTANCE FROM THE PLUGGED OR PERMANENTLY ABANDONED WELL.

20 F. THE LIABILITY BOND OR INSURANCE REQUIRED BY PARAGRAPH D OF THIS
21 SUBDIVISION SHALL BE HELD FOR ONE HUNDRED YEARS AFTER THE WELL HAS BEEN
22 PLUGGED OR PERMANENTLY ABANDONED.

23 G. NOTHING IN THIS SECTION SHALL AFFECT THE REQUIREMENTS OF PARAGRAPH
24 E OF SUBDIVISION THREE OF SECTION 23-1101 OF THIS ARTICLE.

25 6. DEFINITION OF NATURAL RESOURCES. "NATURAL RESOURCES" AS USED IN
26 THIS SECTION MEANS LAND, FISH, WILDLIFE, BIOTA, AIR, WATER, GROUND
27 WATER, DRINKING WATER SUPPLIES, AND OTHER SUCH RESOURCES BELONGING TO,
28 MANAGED BY, HELD IN TRUST BY, APPERTAINING TO, OR OTHERWISE CONTROLLED
29 BY THE STATE OF NEW YORK.

30 S 10. The environmental conservation law is amended by adding a new
31 section 23-0505 to read as follows:

32 S 23-0505. OIL AND GAS FACILITY LOCATION REQUIREMENTS.

33 1. MINIMUM SETBACKS. NO OIL AND GAS FACILITY, WELL-BORE, PIPELINE, OR
34 STORAGE OR DISPOSAL AREA FOR OIL, GAS, OR A HAZARDOUS SUBSTANCE USED IN
35 OIL OR GAS OPERATIONS SHALL BE LOCATED WITHIN TWO THOUSAND FEET OF ANY
36 SURFACE WATERS, GROUNDWATER WELL, HOME OR PRIVATE RESIDENCE (INCLUDING A
37 NURSING HOME), SCHOOL, CHURCH, DAY CARE FACILITY, OR HEALTH CARE FACILI-
38 TY.

39 2. SUBSURFACE LANDS. FOR THE PURPOSES OF SUBDIVISION ONE OF THIS
40 SECTION, THE SETBACKS APPLICABLE TO ANY SURFACE WATERS, GROUNDWATER
41 WELL, HOME OR PRIVATE RESIDENCE (INCLUDING A NURSING HOME), SCHOOL,
42 CHURCH, DAY CARE FACILITY, OR HEALTH CARE FACILITY SHALL ALSO APPLY TO
43 THE LAND DIRECTLY BELOW THOSE AREAS, INCLUDING ANY SUBSURFACE STRATA.

44 3. CONTAMINATION PREVENTION. A. SPILLS, WELL LEAKS, AND CONTAMINANT
45 FLOW FROM TARGETED FORMATION.

46 (1) THE WELL PAD OF ANY OIL OR GAS WELL LOCATED WITHIN ONE-HALF MILE
47 OF ANY SURFACE WATERS MUST BE SURROUNDED BY A PROTECTIVE BERM WITH A
48 WATER DETENTION CAPACITY OF AT LEAST TWENTY-FIVE THOUSAND GALLONS. THE
49 DEPARTMENT MAY REQUIRE A PROTECTIVE BERM TO HAVE A DETENTION CAPACITY
50 GREATER THAN TWENTY-FIVE THOUSAND GALLONS IF THE DEPARTMENT DETERMINES
51 IT IS NECESSARY TO PROTECT SURFACE WATERS FROM CONTAMINATION.

52 (2) THE DEPARTMENT SHALL REQUIRE A SITE-SPECIFIC ANALYSIS OF THE
53 TOPOGRAPHY, GEOLOGY, AND HYDROGEOLOGY OF ALL PROPOSED OIL AND GAS FACIL-
54 ITIES OR PIPELINES. THIS ANALYSIS SHOULD INCLUDE IDENTIFICATION OF ALL
55 POTENTIAL PATHWAYS AND RECEIVING WATERS FOR SPILLS FROM THE SITE TO
56 REACH SURFACE WATERS.

(3) THE DEPARTMENT SHALL REQUIRE THE DEVELOPMENT OF GROUNDWATER CONTOUR AND VERTICAL GRADIENT MAPS OF THE GEOLOGICAL FORMATION FROM THE TARGET FORMATION TO THE GROUND SURFACE PRIOR TO APPROVAL OF ANY GAS DRILLING PERMIT.

(4) THE DEPARTMENT SHALL PROMULGATE REGULATIONS IDENTIFYING TOPOGRAPHICAL AND GEOLOGIC AND HYDROGEOLOGIC CONDITIONS, INCLUDING BUT NOT LIMITED TO STEEP SLOPES BETWEEN THE WELL PAD AND SURFACE WATERS; PROXIMITY TO IMPAIRED WATERWAYS IDENTIFIED BY THE STATE OF NEW YORK PURSUANT TO SECTION 303(D) OF THE FEDERAL CLEAN WATER ACT; CONDITIONS THAT WOULD PERMIT SUDDEN SPILLS TO REACH SURFACE WATERS BEFORE CONTAINMENT IS POSSIBLE; OR ANY OTHER CONDITIONS THAT WOULD INCREASE THE RISK OF SURFACE OR GROUNDWATER CONTAMINATION OR FURTHER DEGRADATION THAT REQUIRE SETBACKS LARGER THAN THOSE SPECIFIED IN SUBDIVISION ONE OF THIS SECTION OR DENIAL OF A WELL DRILLING PERMIT.

(5) AS A CONDITION OF ANY PERMIT GRANTED PURSUANT TO SECTION 23-0501 OF THIS ARTICLE FOR ANY WELL SUBJECT TO SETBACK REQUIREMENTS, THE DEPARTMENT SHALL ESTABLISH SETBACKS SUFFICIENT TO PROTECT HUMAN HEALTH AND THE WATERS OF THE STATE.

B. MONITORING REQUIREMENTS. (1) ALL OIL OR GAS WELLS MUST BE EQUIPPED WITH A MONITORING DEVICE OR DEVICES INSTALLED TO DETECT ANY CONTAMINANT MOVEMENT FROM THE OIL OR GAS WELL IN THE DIRECTION OF ANY GROUNDWATER OR GROUNDWATER WELL.

(2) THE DEPARTMENT SHALL PROMULGATE REGULATIONS ESTABLISHING A MONITORING PROGRAM TO DETECT ANY CONTAMINANT MOVEMENT FROM AN OIL OR GAS FACILITY. THE REGULATIONS SHALL PROVIDE, AT A MINIMUM, THAT:

(I) MONITORING SHALL OCCUR NO LESS OFTEN THAN QUARTERLY;

(II) GROUNDWATER MONITORING SHALL COMMENCE AT OR NEAR THE PROPOSED WELL SITE AT LEAST THREE HUNDRED SIXTY-FIVE DAYS BEFORE DRILLING BEGINS TO PROVIDE A WATER QUALITY BASELINE THAT ACCOUNTS FOR SEASONAL CHANGES IN WATER QUALITY;

(III) MONITORING SHALL CONTINUE FOR THE DURATION OF OPERATIONS UNTIL FIFTY YEARS AFTER OPERATIONS HAVE CEASED OR THE OIL AND GAS WELL HAS BEEN PLUGGED OR PERMANENTLY ABANDONED;

(IV) THE MONITORING DEVICE OR DEVICES USED TO DETECT CONTAMINANT MOVEMENT SHALL REFLECT THE BEST TECHNOLOGY AVAILABLE FOR SUCH MONITORING;

(V) MONITORING SHALL BE CONDUCTED FOR ONE OR MORE ACTUAL CONSTITUENTS OF DRILLING AND FRACTURING FLUIDS USED AT EACH PROXIMATE SITE; AND

(VI) SCREEN LENGTHS, MONITORING WELL DENSITY AND MONITORED AQUIFERS SHALL BE BASED UPON A CONCEPTUAL FLOW MODEL, DEVELOPED ON THE BASIS OF ALL AVAILABLE OR NEW DATA, AS APPROPRIATE, TO DETECT A LEAK OR MIGRATION OF ANY CONTAMINATION SO AS TO MAXIMIZE THE POSSIBILITY OF DETECTION PRIOR TO CONTAMINATION OF ANY DRINKING WATER SOURCE.

S 11. The environmental conservation law is amended by adding a new section 23-0507 to read as follows:

S 23-0507. EXCLUSION AREAS.

1. THE DEPARTMENT SHALL IDENTIFY SPECIFIC AREAS WITH DETERMINABLE BOUNDARIES IN WHICH ANY OIL AND GAS FACILITIES, WELL-BORES, PIPELINES, OR STORAGE OR DISPOSAL AREAS FOR OIL, GAS, OR A HAZARDOUS SUBSTANCE USED IN OIL OR GAS OPERATIONS WILL BE PROHIBITED. THESE AREAS SHALL INCLUDE:

A. THE AREA AROUND AND INCLUDING THE NEW YORK CITY WATERSHED;

B. THE AREA AROUND AND INCLUDING ANY WATER SYSTEM THAT HAS RECEIVED, AT ANY POINT IN TIME, A FILTRATION AVOIDANCE DETERMINATION FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY;

C. ANY AREA OVERLYING A SOLE SOURCE AQUIFER;

D. ANY OTHER AREA IDENTIFIED BY THE DEPARTMENT AS NECESSARY FOR THE PROTECTION OF DRINKING WATER RESOURCES;

1 E. ANY AREA IDENTIFIED AS A CRITICAL HABITAT FOR A THREATENED OR
2 ENDANGERED SPECIES UNDER SECTION FOUR OF THE FEDERAL ENDANGERED SPECIES
3 ACT (42 U.S.C. S 1533) OR ANY AREA IDENTIFIED AS A "NATURAL HERITAGE
4 AREA" UNDER SECTION 11-0539 OF THIS CHAPTER;

5 F. ANY AREA IDENTIFIED BY THE DEPARTMENT AS A BIRD CONSERVATION AREA
6 OR ANY OTHER CRITICAL BIRD HABITAT FOR THE PROTECTION OF MIGRATORY OR
7 NON-MIGRATORY BIRDS;

8 G. ALL FLOODPLAINS; AND,

9 H. ALL AREAS WITHIN ANY NEW YORK STATE PARK, FOREST PRESERVE, STATE
10 FOREST, WILDLIFE REFUGE, WILDLIFE MANAGEMENT AREA, OR WILDERNESS AREA.

11 2. FOR ANY AREAS IDENTIFIED IN PARAGRAPH A OR B OF SUBDIVISION ONE OF
12 THIS SECTION THE DEPARTMENT SHALL IDENTIFY AN ADDITIONAL AREA AROUND THE
13 PRIMARY DRINKING WATER RESOURCE IN WHICH OIL AND GAS OPERATIONS SHALL BE
14 PROHIBITED IN ORDER TO ENSURE ADEQUATE PROTECTION OF SUCH RESOURCE.

15 3. FOR ANY AREAS IDENTIFIED IN PARAGRAPHS A, B, C, OR E OF SUBDIVISION
16 ONE OF THIS SECTION THE DEPARTMENT SHALL ADD AN ADDITIONAL EXCLUSION
17 BUFFER OF NO LESS THAN ONE-HALF MILE IN WHICH ANY OIL AND GAS FACILI-
18 TIES, WELL-BORES, PIPELINES, OR STORAGE OR DISPOSAL AREAS FOR OIL, GAS,
19 OR A HAZARDOUS SUBSTANCE USED IN OIL OR GAS OPERATIONS WILL BE PROHIBIT-
20 ED.

21 4. ALL AREAS IDENTIFIED IN SUBDIVISION ONE OF THIS SECTION AND THE
22 EXCLUSION BUFFER AREAS IDENTIFIED IN SUBDIVISION TWO OF THIS SECTION
23 SHALL INCLUDE ALL THE LAND LOCATED DIRECTLY BELOW THOSE AREAS, INCLUDING
24 ALL LEVELS OF SUBSURFACE STRATA.

25 5. THE DEPARTMENT MAY ALSO IDENTIFY ANY OTHER EXCLUSION AREA FOR THE
26 PROTECTION OF ANY NATURAL RESOURCE AS DEFINED IN SUBDIVISION SIX OF
27 SECTION 23-0317 OF THIS ARTICLE OR FOR THE HEALTH, SAFETY, OR GENERAL
28 WELFARE OF ANY CITIZEN, RESIDENT, OR VISITOR IN THE STATE OF NEW YORK.

29 S 12. The environmental conservation law is amended by adding a new
30 section 23-0509 to read as follows:

31 S 23-0509. PROHIBITION ON WASTE STORAGE PITS OR IMPOUNDMENTS.

32 PITS AND OTHER IMPOUNDMENTS, WHETHER OR NOT LINED, SHALL NOT BE USED
33 FOR ON-SITE OR OFF-SITE COLLECTION OR STORAGE OF ANY OIL OR GAS EXPLORA-
34 TION, STIMULATION, OR PRODUCTION WASTES, INCLUDING BUT NOT LIMITED TO
35 DRILLING FLUIDS AND CUTTINGS, HYDRAULIC FRACTURING FLOWBACK, PRODUCED
36 WATER, AND RESIDUAL SLUDGES OR BRINES REMAINING AFTER ON-SITE TREATMENT
37 OF OIL OR GAS WASTES FOR REUSE OR RECYCLING. ALL OIL OR GAS EXPLORATION,
38 STIMULATION, OR PRODUCTION WASTES SHALL BE COLLECTED AND STORED AND
39 RETRIEVABLE AT ALL TIMES IN CLOSED-LOOP SYSTEMS. THE DEPARTMENT SHALL
40 PROMULGATE MINIMUM STANDARDS FOR CLOSED-LOOP SYSTEMS FOR OIL AND GAS
41 WASTE COLLECTION, STORAGE, AND RETRIEVAL.

42 S 13. Section 23-1903 of the environmental conservation law, as
43 amended by section 1 of part R-1 of chapter 62 of the laws of 2003, is
44 amended to read as follows:

45 S 23-1903. Imposition of oil, gas and solution mining regulation and
46 reclamation fees.

47 1. When a permit is granted to a person by the department pursuant to
48 section 23-0305 of this article to drill a well or when a person
49 converts a well to one subject to the oil, gas and solution mining law,
50 such person shall pay to the department:

51 a. A one hundred dollar fee to be credited to the oil and gas account
52 established under chapter fifty-eight of the laws of nineteen hundred
53 eighty-two; and

54 b. A fee in accordance with the depth AND LENGTH drilled or expected
55 to be drilled as set forth below:

56 0- 500ft. - [\$ 190] \$ 250

1	501-	1000ft.	-	[\$ 380]	\$ 500
2	1001-	1500ft.	-	[\$ 570]	\$ 750
3	1501-	2000ft.	-	[\$ 760]	\$1000
4	2001-	2500ft.	-	[\$ 950]	\$1250
5	2501-	3000ft.	-	[\$1,140]	\$1500
6	3001-	3500ft.	-	[\$1,330]	\$1750
7	3501-	4000ft.	-	[\$1,520]	\$2000
8	4001-	4500ft.	-	[\$1,710]	\$2250
9	4501-	5000ft.	-	[\$1,900]	\$2500
10	5001-	5500ft.	-	[\$2,090]	\$2750
11	5501-	6000ft.	-	[\$2,280]	\$3000
12	6001-	6500ft.	-	[\$2,470]	\$3250
13	6501-	7000ft.	-	[\$2,660]	\$3500
14	7001-	7500ft.	-	[\$2,850]	\$3750
15	7501-	8000ft.	-	[\$3,040]	\$4000
16	8001-	8500ft.	-	[\$3,230]	\$4250
17	8501-	9000ft.	-	[\$3,420]	\$4500
18	9001-	9500ft.	-	[\$3,610]	\$4750
19	9501-	10,000ft.	-	[\$3,800]	\$5000
20	over 10,000ft.- [\$3,800] \$5000 plus [\$190] \$250 for each incremental				

21 500 feet of depth OR LENGTH over 10,000 feet.

22 A person who has paid the fees described shall not be required to pay
 23 any additional fee for a well conversion. The fee for well deepening
 24 permits pertaining to wells for which a well drilling permit was issued
 25 after August twenty-fifth, nineteen hundred eighty-one, shall be calcu-
 26 lated on the basis of the additional depth OR LENGTH drilled.

27 In the event the actual depth drilled exceeds the depth expected to be
 28 drilled, an additional amount shall be paid such that the total fee paid
 29 shall be in accordance with the schedule set forth in this paragraph.

30 2. THE DEPARTMENT SHALL REVIEW THE FEE SCHEDULES SET FORTH IN THIS
 31 SECTION PRIOR TO SEPTEMBER FIRST OF EACH YEAR. THE FIGURES WILL BE
 32 ADJUSTED UP OR DOWN ANNUALLY BY THE PREVIOUS TWELVE MONTH INFLATION
 33 FACTOR. THE INFLATION FACTOR IS BASED UPON THE UNITED STATES DEPARTMENT
 34 OF LABOR, BUREAU OF LABOR STATISTICS DATA PUBLISHED IN THE MONTHLY CPI
 35 DETAILED REPORT. THE DATA WILL BE TAKEN FROM THE MOST RECENT REPORT
 36 AVAILABLE ON JULY FIRST OF EACH YEAR AND THE ACTUAL PERCENTAGE USED WILL
 37 BE THE PAST YEAR PERCENT CHANGE FOR THE U.S. CITY AVERAGE, ALL ITEMS,
 38 ALL URBAN CONSUMERS.

39 3. Upon requesting from the department any determination under the
 40 Natural Gas Policy Act, such person shall pay a [fifty] ONE HUNDRED
 41 dollar fee per well for each such determination.

42 S 14. Article 23 of the environmental conservation law is amended by
 43 adding a new title 29 to read as follows:

44 TITLE 29

45 CITIZEN SUITS

46 SECTION 23-2901. ACTIONS TO ENFORCE LAWS ON POLLUTION, IMPAIRMENT OR
 47 DESTRUCTION OF ENVIRONMENT, OR TO PROTECT ENVIRON-
 48 MENT; DISMISSAL OF FRIVOLOUS ACTIONS.

49 S 23-2901. ACTIONS TO ENFORCE LAWS ON POLLUTION, IMPAIRMENT OR
 50 DESTRUCTION OF ENVIRONMENT, OR TO PROTECT ENVIRONMENT;
 51 DISMISSAL OF FRIVOLOUS ACTIONS.

52 1. ANY PERSON MAY COMMENCE A CIVIL ACTION IN A COURT OF COMPETENT
 53 JURISDICTION AGAINST ANY OTHER PERSON ALLEGED TO BE IN VIOLATION OF ANY
 54 STATUTE, REGULATION OR ORDINANCE WHICH IS DESIGNED TO PREVENT, MINIMIZE
 55 OR CONTROL POLLUTION, IMPAIRMENT OR DESTRUCTION OF THE ENVIRONMENT. THE
 56 ACTION MAY BE FOR INJUNCTIVE OR OTHER EQUITABLE RELIEF TO COMPEL COMPLI-

ANCE WITH A STATUTE, REGULATION OR ORDINANCE, OR TO ASSESS CIVIL PENALTIES FOR THE VIOLATION AS PROVIDED BY LAW. THE ACTION MAY BE COMMENCED UPON AN ALLEGATION THAT A PERSON IS IN VIOLATION, EITHER CONTINUOUSLY OR INTERMITTENTLY, OF A STATUTE, REGULATION OR ORDINANCE, AND THAT THERE IS A LIKELIHOOD THAT THE VIOLATION WILL RECUR IN THE FUTURE.

2. EXCEPT IN THOSE INSTANCES WHERE THE CONDUCT COMPLAINED OF CONSTITUTES A VIOLATION OF A STATUTE, REGULATION OR ORDINANCE WHICH ESTABLISHES A MORE SPECIFIC STANDARD FOR THE CONTROL OF POLLUTION, IMPAIRMENT OR DESTRUCTION OF THE ENVIRONMENT, ANY PERSON MAY COMMENCE A CIVIL ACTION IN ANY COURT OF COMPETENT JURISDICTION FOR DECLARATORY AND EQUITABLE RELIEF AGAINST ANY OTHER PERSON FOR THE PROTECTION OF THE ENVIRONMENT, OR THE INTEREST OF THE PUBLIC THEREIN, FROM POLLUTION, IMPAIRMENT OR DESTRUCTION OCCURRING IN VIOLATION, EITHER CONTINUOUSLY OR INTERMITTENTLY, OF THIS ARTICLE.

3. THE COURT MAY, ON THE MOTION OF ANY PARTY, OR ON ITS OWN MOTION, DISMISS ANY ACTION BROUGHT PURSUANT TO THIS ACT WHICH ON ITS FACE APPEARS TO BE PATENTLY FRIVOLOUS, HARASSING OR WHOLLY LACKING IN MERIT.

S 15. Article 23 of the environmental conservation law is amended by adding a new title 31 to read as follows:

TITLE 31

HEALTH IMPACT ASSESSMENT

SECTION 23-3101. PREPARATION OF HEALTH IMPACT ASSESSMENT.

S 23-3101. PREPARATION OF HEALTH IMPACT ASSESSMENT.

1. NO PERMIT SHALL BE ISSUED UNDER SECTION 23-0501 OF THIS ARTICLE UNTIL THE DEPARTMENT OF HEALTH HAS COMPLETED THE HEALTH IMPACT ASSESSMENT DESCRIBED IN SUBDIVISION TWO OF THIS SECTION AND THE DEPARTMENT HAS ADOPTED REGULATIONS AND IMPLEMENTED ANY MITIGATION MEASURES RECOMMENDED IN THE HEALTH IMPACT ASSESSMENT. THE PURPOSE OF A HEALTH IMPACT ASSESSMENT IS TO PROVIDE DETAILED INFORMATION ABOUT THE EFFECT OIL AND GAS OPERATIONS ARE LIKELY TO HAVE ON PUBLIC HEALTH, TO IDENTIFY MEASURES THAT COULD BE IMPLEMENTED TO MINIMIZE ANY ADVERSE EFFECTS OF SUCH OPERATIONS, AND TO SUGGEST ALTERNATIVES TO SUCH AN ACTION SO AS TO FORM THE BASIS FOR A DECISION WHETHER OR NOT TO UNDERTAKE OR APPROVE SUCH ACTIVITIES.

2. THE DEPARTMENT OF HEALTH SHALL PREPARE, OR CAUSE TO BE PREPARED BY CONTRACT OR OTHERWISE, A COMPREHENSIVE HEALTH IMPACT ASSESSMENT OF OIL AND GAS OPERATIONS INVOLVING ANY SHALE FORMATION, INCLUDING ALL OPERATIONS RELATED AND INCIDENT THERETO, WHICH MAY HAVE AN ADVERSE IMPACT ON PUBLIC HEALTH.

A. SUCH AN ASSESSMENT SHALL INCLUDE A DETAILED STATEMENT SETTING FORTH THE FOLLOWING:

I. A DESCRIPTION OF THE OPERATIONS;

II. THE PUBLIC HEALTH IMPACT OF THE OPERATIONS, INCLUDING SHORT-TERM AND LONG-TERM EFFECTS;

III. WHETHER AN OPERATION OCCURS IN, OR DISPROPORTIONATELY WILL IMPOSE NEGATIVE HEALTH IMPACTS UPON A POTENTIAL ENVIRONMENTAL JUSTICE AREA, AND IF SO, THE IDENTITY OF SUCH AREA;

IV. ANY ADVERSE PUBLIC HEALTH EFFECTS THAT CANNOT BE AVOIDED;

V. ALTERNATIVES TO THE OIL AND GAS OPERATIONS GENERALLY OR ALTERNATIVES TO ANY ASPECT RELATED OR INCIDENT THERETO WHICH MAY HAVE AN ADVERSE IMPACT ON PUBLIC HEALTH;

VI. MITIGATION MEASURES PROPOSED TO MINIMIZE THE PUBLIC HEALTH IMPACT;

VII. ANY SUCH OTHER INFORMATION CONSISTENT WITH THE PURPOSES OF THIS ARTICLE AS MAY BE PRESCRIBED IN GUIDELINES ISSUED BY THE COMMISSIONER.

B. THE DEPARTMENT OF HEALTH SHALL FIRST ISSUE A DRAFT HEALTH IMPACT ASSESSMENT THAT SATISFIES THE REQUIREMENTS OF PARAGRAPH A OF THIS SUBDI-

VISION. THE DRAFT SHOULD RESEMBLE IN FORM AND CONTENT THE HEALTH IMPACT ASSESSMENT TO BE PREPARED AFTER COMMENTS HAVE BEEN RECEIVED AND CONSIDERED.

3. THE DRAFT ASSESSMENT SHALL BE FILED WITH THE DEPARTMENT.

A. THE DEPARTMENT AND THE DEPARTMENT OF HEALTH SHALL SOLICIT COMMENTS FROM THE PUBLIC AND FEDERAL, STATE, REGIONAL AND LOCAL AGENCIES HAVING AN INTEREST IN THE ASSESSMENT. THE COMMENT PERIOD SHALL LAST NO SHORTER THAN NINETY DAYS.

B. THE DRAFT ASSESSMENT SHALL BE POSTED ON THE DEPARTMENT OF HEALTH'S AND THE DEPARTMENT'S WEBSITES.

4. AFTER THE FILING OF A DRAFT HEALTH IMPACT ASSESSMENT EITHER THE DEPARTMENT OF HEALTH OR THE DEPARTMENT SHALL DETERMINE WHETHER OR NOT TO CONDUCT A PUBLIC HEARING ON THE PUBLIC HEALTH IMPACT OF THE OIL AND GAS OPERATIONS. IF EITHER AGENCY DETERMINES TO HOLD SUCH HEARING, IT SHALL COMMENCE THE HEARING WITHIN SIXTY DAYS OF THE FILING UNLESS THE PROPOSED ACTION IS WITHDRAWN FROM CONSIDERATION.

5. IF NO HEARING IS HELD, THE AGENCY SHALL PREPARE AND MAKE AVAILABLE THE FINAL HEALTH IMPACT ASSESSMENT. THE FINAL ASSESSMENT SHALL INCLUDE COPIES OR A SUMMARY OF THE SUBSTANTIVE COMMENTS RECEIVED BY THE AGENCY PURSUANT TO SUBDIVISION FOUR OF THIS SECTION, AND THE AGENCY RESPONSE TO SUCH COMMENTS.

6. THE HEALTH IMPACT ASSESSMENT TOGETHER WITH ALL COMMENTS, SHALL BE FILED WITH THE COMMISSIONER, MADE AVAILABLE TO THE PUBLIC, AND POSTED ON A PUBLICLY-AVAILABLE INTERNET WEBSITE UPON ISSUANCE.

7. WHEN AN AGENCY DECIDES TO CARRY OUT OR APPROVE AN ACTION WHICH HAS BEEN THE SUBJECT OF THIS HEALTH IMPACT ASSESSMENT, IT SHALL MAKE AN EXPLICIT FINDING THAT THE REQUIREMENTS OF THIS SECTION HAVE BEEN MET AND THAT TO THE MAXIMUM EXTENT PRACTICABLE, ADVERSE PUBLIC HEALTH IMPACTS REVEALED IN THE HEALTH IMPACT ASSESSMENT PROCESS WILL BE MINIMIZED OR AVOIDED.

8. WHERE THE DEPARTMENT OF HEALTH CONCLUDES OR THE HEALTH IMPACT ASSESSMENT INDICATES THAT THE OIL AND GAS OPERATIONS, OR OPERATIONS RELATED OR INCIDENT THERETO, OCCUR IN, OR DISPROPORTIONATELY WILL IMPOSE NEGATIVE HEALTH IMPACTS UPON A POTENTIAL ENVIRONMENTAL JUSTICE AREA, THE DEPARTMENT OF HEALTH SHALL REQUIRE A SITE SPECIFIC HEALTH IMPACT ASSESSMENT. THAT ASSESSMENT SHALL CONFORM TO THE REQUIREMENTS SET FORTH IN SUBDIVISION TWO OF THIS SECTION, AND THE DEPARTMENT OF HEALTH SHALL MAKE REGULATIONS SPECIFYING ADDITIONAL REQUIREMENTS WHICH SHALL APPLY TO SITE SPECIFIC ASSESSMENTS. NO PERMIT SHALL BE ISSUED UNDER SECTION 23-0501 OF THIS ARTICLE IN ANY AREA SUBJECT TO A SITE SPECIFIC HEALTH IMPACT ASSESSMENT UNTIL THE SITE SPECIFIC HEALTH IMPACT ASSESSMENT HAS BEEN COMPLETED AND THE MITIGATION MEASURES SUGGESTED THEREIN HAVE BEEN ADOPTED. THE DEPARTMENT OF HEALTH MAY REQUIRE A SITE SPECIFIC HEALTH IMPACT ASSESSMENTS IN ANY OTHER CIRCUMSTANCES IT DEEMS ADVISABLE.

S 16. Article 23 of the environmental conservation law is amended by adding a new title 33 to read as follows:

TITLE 33

AIR QUALITY MONITORING

SECTION 23-3301. AIR QUALITY MONITORING.

S 23-3301. AIR QUALITY MONITORING.

WITHIN SIX MONTHS OF THE ENACTMENT OF THIS SECTION THE DEPARTMENT SHALL:

1. PREPARE A DRAFT AIR QUALITY TESTING AND MONITORING PLAN FOR ALL AREAS OF CURRENT OR POTENTIAL OIL AND GAS OPERATIONS IN NEW YORK STATE. THE DRAFT PLAN SHALL BE SUBJECT TO PUBLIC REVIEW, INCLUDING BUT NOT

1 LIMITED TO NOTICE AND A COMMENT PERIOD OF AT LEAST THIRTY DAYS. THE
2 DRAFT AND FINAL PLAN SHALL INCORPORATE THE FOLLOWING MINIMUM PROVISIONS:

3 A. MANDATORY BASELINE TESTING OF AIR QUALITY AND AIR POLLUTANT EMIS-
4 SIONS THROUGHOUT THE OIL AND GAS DEVELOPMENT REGION OF NEW YORK STATE,
5 INCLUDING EMISSIONS FROM BOTH MOBILE AND STATIONARY AIR CONTAMINATION
6 SOURCES INVOLVED IN OIL AND GAS OPERATIONS, AS DEFINED IN SUBDIVISION
7 FIVE OF SECTION 19-0107 OF THIS CHAPTER;

8 B. DEPLOYMENT OF A SUFFICIENT NUMBER OF AIR QUALITY MONITORING DEVICES
9 WITHIN THE OIL AND GAS DEVELOPMENT REGION TO ENSURE PROMPT DETECTION OF
10 ANY VIOLATIONS OF AIR QUALITY STANDARDS;

11 C. DELINEATION OF OIL AND GAS DEVELOPMENT SUBREGIONS WITHIN NEW YORK
12 STATE, BASED ON THE AIRSHEDS FOR EACH REGULATED POLLUTANT EMITTED BY OIL
13 AND GAS FACILITIES; PREPARATION OF CUMULATIVE IMPACT ANALYSES OF AIR
14 EMISSIONS IN EACH SUBREGION, INCLUDING EMISSIONS FROM ALL NATURAL GAS
15 COMPRESSOR STATIONS; AND DEVELOPMENT OF STANDARDS AND REGULATORY PROCE-
16 DURES FOR CONTROL OF COMPRESSOR STATION EMISSIONS;

17 D. DEVELOPMENT OF PROCEDURES AND A SCHEDULE FOR THE REGULAR MONITORING
18 AND REPORTING OF AIR QUALITY AND AIR POLLUTANT DENSITY WITHIN EACH OF
19 THE SUBREGIONS;

20 E. MANDATORY POSTING OF SUCH REPORTS ON THE DEPARTMENT'S WEBSITE;

21 F. ESTABLISHMENT OF PROCEDURES FOR APPROPRIATE RESPONSES, INCLUDING
22 EMERGENCY RESPONSES, TO VIOLATIONS OF AIR QUALITY STANDARDS.

23 2. IN THE FINAL AIR QUALITY TESTING AND MONITORING PLAN, THE DEPART-
24 MENT SHALL RESPOND TO ALL SUBSTANTIVE COMMENTS TIMELY SUBMITTED ON THE
25 DRAFT PLAN.

26 3. NO PERMIT SHALL BE ISSUED UNDER SECTION 23-0501 OF THIS ARTICLE
27 UNTIL THIRTY DAYS AFTER NOTICE OF THE FINAL PLAN IS PUBLISHED IN THE
28 ENVIRONMENTAL NOTICE BULLETIN.

29 4. NO PERMIT SHALL BE ISSUED UNDER SECTION 23-0501 OF THIS ARTICLE, IF
30 AIR EMISSIONS FROM THE PERMITTED OPERATION WOULD CAUSE OR CONTRIBUTE TO
31 A VIOLATION OF ANY AIR QUALITY STANDARD.

32 S 17. Section 27-0903 of the environmental conservation law is amended
33 by adding a new subdivision 4 to read as follows:

34 4. UNIFORM TREATMENT OF WASTE. NOTWITHSTANDING ANY OTHER LAW OR REGU-
35 LATION TO THE CONTRARY, ALL WASTE RESULTING FROM THE EXPLORATION, DEVEL-
36 OPMENT, EXTRACTION OR PRODUCTION OF CRUDE OIL OR NATURAL GAS, INCLUDING
37 BUT NOT LIMITED TO DRILLING FLUIDS AND PRODUCED WATERS, SHALL BE CONSID-
38 ERED HAZARDOUS WASTE UNDER THE LAW OF THIS STATE AND SUBJECT TO ALL
39 PERTINENT GENERATION, TRANSPORTATION, TREATMENT, STORAGE, AND DISPOSAL
40 LAWS AND REGULATIONS, IF SUCH WASTE MEETS THE DEFINITION OF HAZARDOUS
41 WASTE SET FORTH IN SUBDIVISION THREE OF SECTION 27-0901 OF THIS CHAPTER.
42 WITHIN SIX MONTHS FROM THE EFFECTIVE DATE OF THIS SUBDIVISION, THE
43 DEPARTMENT SHALL MAKE ALL NECESSARY CHANGES TO BRING ITS REGULATIONS
44 INTO COMPLIANCE WITH THIS SECTION.

45 S 18. Section 15-1501 of the environmental conservation law, as
46 amended by chapter 233 of the laws of 1979, is amended to read as
47 follows:

48 S 15-1501. [New or additional sources of water supply] WATER WITHDRAWAL;
49 permit.

50 1. Except as otherwise provided in this title, no person [or public
51 corporation] who is authorized and engaged in, or proposing to engage
52 in, the [acquisition, conservation, development, use and distribution of
53 water for potable purposes, for the irrigation of agricultural lands,
54 for projects taken pursuant to Article 5-D of the County Law, or for
55 multi-purpose projects authorized by a general plan adopted and approved
56 pursuant to title 11 of this article,] OPERATION OF A WATER WITHDRAWAL

1 SYSTEM WITH A CAPACITY OF GREATER THAN OR EQUAL TO THE THRESHOLD VOLUME,
2 shall have any power to do the following until such person [or public
3 corporation] has first obtained a permit OR PERMIT MODIFICATION from the
4 department pursuant to this title:

5 a. To [acquire or take] MAKE a water [supply] WITHDRAWAL FROM A NEW
6 SOURCE or an [additional] INCREASED water [supply] WITHDRAWAL from an
7 existing [approved] source; [or]

8 b. To take or condemn lands for THE PROTECTION OF ANY EXISTING SOURCES
9 OF PUBLIC WATER SUPPLY; OR FOR THE DEVELOPMENT OR PROTECTION OF any new
10 or additional sources of PUBLIC water supply [or for the utilization of
11 such supplies]; [or]

12 c. To commence or undertake the construction of any works or projects
13 in connection with the proposed [plans] WITHDRAWAL; or

14 d. [To exercise any franchise hereafter granted to supply water to any
15 inhabitants of the state; or

16 e. To extend its supply or distribution mains into a municipality,
17 water district, water supply district, or other civil division of the
18 state wherein it has not heretofore legally supplied water; or

19 f. To construct any extension of its supply mains except within a
20 service area approved by the department after public hearing; or

21 g. To extend the boundaries of a water district; or

22 h. To supply water in or for use in any other municipality or civil
23 division of the state which owns and operates a water supply system
24 therein, or in any duly organized water supply or fire district supplied
25 with water by another person or public corporation] TO MAKE A SIGNIF-
26 ICANT CHANGE IN THE PRINCIPAL USE OF THE WATER WITHDRAWAL SYSTEM FROM
27 THAT SPECIFIED IN THE PERMIT, OR PERMIT APPLICATION.

28 2. [A permit shall not be necessary for the extension of supply or
29 distributing mains or pipes of a municipal water supply plant into and
30 for the purpose of supplying water in any territory within the limits of
31 the municipality owning such plant, including territory which has not
32 been heretofore supplied with water by such plant, nor for the recon-
33 struction or replacement of existing facilities in connection with an
34 existing plant wherein the capacity of the plant is in no way increased,
35 nor for the construction of filtration or other treatment facilities
36 which will not in any way increase the amount of water which can be made
37 available from the present sources of supply. A permit shall not be
38 necessary for the extension of supply or distributing mains or pipes of
39 a county water authority into and for the purpose of supplying water in
40 any territory assigned to such county water authority within the limits
41 of the county but excluding territory specifically assigned to private
42 or other municipal water companies by the department which has not been
43 heretofore supplied with water by such county water authority, nor for
44 the reconstruction or replacement of existing facilities in connection
45 with an existing plant wherein the capacity of the plant is in no way
46 increased, nor for the construction of filtration or other treatment
47 facilities which will not in any way increase the amount of water which
48 can be made available from the present sources of supply, provided,
49 however, that nothing herein contained shall be held to authorize such
50 county water authority to enter into competition with, for the purpose
51 of service in the area served by the mains, the transmission or distrib-
52 ution mains of any other water works system, either publicly or private-
53 ly owned, already legally established in said county for the sale of
54 water at wholesale or retail, or which hereafter may legally be estab-
55 lished for said purpose; or to sell water to any other water works
56 system, either publicly or privately owned, and not now served by said

1 county authority] ALL PERSONS REQUIRED TO OBTAIN A PERMIT UNDER THIS
2 SECTION SHALL SUBMIT ANNUALLY TO THE DEPARTMENT A FEE IN AN AMOUNT
3 PRESCRIBED IN TITLE EIGHT OF ARTICLE SEVENTY-TWO OF THIS CHAPTER;
4 PROVIDED, HOWEVER, THAT NO PERSON SHALL BE REQUIRED TO PAY SUCH FEE
5 UNTIL THE DEPARTMENT PROMULGATES REGULATIONS PURSUANT TO SUBDIVISION
6 FIVE OF THIS SECTION.

7 3. UNTIL THE DEPARTMENT PROMULGATES REGULATIONS PURSUANT TO SUBDIVI-
8 SION FIVE OF THIS SECTION, NOTHING CONTAINED IN SUBDIVISION ONE OF THIS
9 SECTION CONCERNING PERMITS FROM THE DEPARTMENT SHALL BE APPLICABLE TO
10 WATER WITHDRAWALS OTHER THAN FOR A PUBLIC WATER SUPPLY SYSTEM. UNTIL AND
11 UNLESS OTHERWISE PROVIDED BY SUCH REGULATIONS, ALL VALID PUBLIC WATER
12 SUPPLY PERMITS ISSUED BY THE DEPARTMENT OR ITS PREDECESSORS SHALL REMAIN
13 IN FULL FORCE AND EFFECT AND SHALL BE DEEMED TO SATISFY THE PERMIT
14 REQUIREMENTS OF SUBDIVISION ONE OF THIS SECTION FOR EXISTING WATER WITH-
15 DRAWALS FROM A SOURCE AND IN AN AMOUNT AUTHORIZED BY THE PERMIT.

16 4. Nothing CONTAINED in this [section provided] TITLE CONCERNING
17 PERMITS FROM THE DEPARTMENT FOR WATER WITHDRAWALS shall be deemed to
18 nullify the requirements of [Regulation 2, Chapter V] SECTION 5-1.22 of
19 the State Sanitary Code, as in effect on [January 1, 1960, that plans
20 for a new water treatment plant for the treatment of an existing public
21 water supply or for any addition to or modification of an existing water
22 treatment plant, or for any addition to or modification of a public
23 water supply system which will or may affect the quality of the public
24 water supply, shall be submitted to and approved by the Commissioner of
25 Health, which regulation has no application to a new or additional
26 source or sources of public water supply of a permanent character which
27 require a permit from the Department of Environmental Conservation under
28 the provisions of this article] APRIL 25, 2001, AS AMENDED FROM TIME TO
29 TIME. NO SUPPLIER OF WATER SHALL MAKE, INSTALL OR CONSTRUCT, OR ALLOW
30 TO BE MADE, INSTALLED OR CONSTRUCTED, A PUBLIC WATER SUPPLY SYSTEM OR
31 ANY ADDITION OR DELETION TO OR MODIFICATION OF A PUBLIC WATER SUPPLY
32 SYSTEM UNTIL THE PLANS AND SPECIFICATIONS THEREFOR HAVE BEEN SUBMITTED
33 TO AND APPROVED BY THE COMMISSIONER OF HEALTH OR HIS OR HER DESIGNEE.

34 5. THE DEPARTMENT SHALL PROMULGATE REGULATIONS TO IMPLEMENT A PERMIT-
35 TING PROGRAM FOR WATER WITHDRAWALS EQUAL TO OR GREATER THAN THE THRESH-
36 OLD VOLUME CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION. SUCH REGU-
37 LATIONS WILL INCLUDE BUT ARE NOT LIMITED TO: (A) MINIMUM STANDARDS FOR
38 CONSTRUCTION AND OPERATION OF WATER WITHDRAWAL SYSTEMS, (B) REPORTING
39 AND RECORDKEEPING REQUIREMENTS, (C) REQUIREMENTS FOR PERSONS WHO OWN OR
40 OPERATE PUBLIC WATER SUPPLY SYSTEMS TO ENSURE SAFE AND RELIABLE SERVICE
41 TO USERS AND POTENTIAL USERS OF SUCH SYSTEMS, (D) PROTECTIONS FOR PRES-
42 ENT AND FUTURE NEEDS FOR SOURCES OF POTABLE WATER SUPPLY, AND (E) ANY
43 OTHER CONDITIONS, LIMITATIONS AND RESTRICTIONS THAT THE DEPARTMENT
44 DETERMINES ARE NECESSARY TO PROTECT THE ENVIRONMENT AND THE PUBLIC
45 HEALTH, SAFETY AND WELFARE AND TO ENSURE THE PROPER MANAGEMENT OF THE
46 WATERS OF THE STATE.

47 6. THE DEPARTMENT SHALL ESTABLISH A WATER CONSERVATION AND EFFICIENCY
48 PROGRAM WITH THE GOALS OF (A) ENSURING IMPROVEMENT OF THE WATERS AND
49 WATER DEPENDENT NATURAL RESOURCES, (B) PROTECTING AND RESTORING THE
50 HYDROLOGIC AND ECOSYSTEM INTEGRITY OF WATERSHEDS THROUGHOUT THE STATE,
51 (C) RETAINING THE QUANTITY OF SURFACE WATER AND GROUNDWATER IN THE
52 STATE, (D) ENSURING SUSTAINABLE USE OF STATE WATERS, AND (E) PROMOTING
53 THE EFFICIENCY OF USE AND REDUCING LOSSES AND WASTE OF WATER.

54 7. THE DEPARTMENT IS AUTHORIZED TO CONSOLIDATE EXISTING WATER SUPPLY
55 PERMITS FOR A PUBLIC WATER SUPPLY SYSTEM INTO ONE PERMIT, AND MAY
56 REQUIRE SUBMISSION OF AN APPLICATION FOR SUCH PERMIT WHERE THE DEPART-

1 MENT DETERMINES THAT SUCH ACTIONS ARE NECESSARY TO PROTECT THE ENVIRON-
2 MENT AND THE PUBLIC HEALTH, SAFETY AND WELFARE AND TO ENSURE THE PROPER
3 MANAGEMENT OF THE WATERS OF THE STATE.

4 8. EACH PERSON WHO IS REQUIRED UNDER THIS SECTION TO HOLD A PERMIT
5 SHALL ANNUALLY, ON A FORM PRESCRIBED BY THE DEPARTMENT, REPORT ALL
6 INFORMATION REQUESTED BY THE DEPARTMENT, INCLUDING BUT NOT LIMITED TO
7 WATER CONSERVATION PRACTICES AND MEASURES UNDERTAKEN DURING THE REPORT-
8 ING PERIOD. SUCH INFORMATION SHALL BE POSTED TO THE DEPARTMENT'S
9 WEBSITE.

10 9. THE FOLLOWING WATER WITHDRAWALS ARE EXEMPT FROM THE PERMIT REQUIRE-
11 MENTS ESTABLISHED BY THIS SECTION: (A) WITHDRAWALS USED FOR FIRE
12 SUPPRESSION OR PUBLIC EMERGENCY PURPOSES, (B) WITHDRAWALS SUBJECT TO THE
13 PERMITTING REQUIREMENTS OF A COMPACT BASIN COMMISSION WHICH ADMINISTERS
14 A PERMITTING PROGRAM GOVERNING SUCH WATER WITHDRAWALS, (C) CLOSED LOOP,
15 STANDING COLUMN, OR SIMILAR NON-EXTRACTIVE GEOTHERMAL HEAT PUMPS; AND
16 (D) WITHDRAWALS FOR WHICH A PERMIT HAS BEEN ISSUED PURSUANT TO THE
17 REQUIREMENTS OF SECTION 15-1527 OF THIS TITLE.

18 10. NOTHING IN THIS CHAPTER SHALL RELIEVE AN APPLICANT FOR A WATER
19 WITHDRAWAL PERMIT FROM FULL COMPLIANCE WITH THE PROVISIONS OF ARTICLE 8
20 OF THIS CHAPTER, RELATING TO ENVIRONMENTAL QUALITY REVIEW.

21 S 19. Section 15-1502 of the environmental conservation law is amended
22 by adding nine new subdivisions 7, 8, 9, 10, 11, 12, 13, 14 and 15 to
23 read as follows:

24 7. "COMPACT BASIN COMMISSION" SHALL MEAN AN INTERSTATE COMMISSION
25 HAVING JURISDICTION WITH RESPECT TO THE REGULATION OF WATER RESOURCES
26 WITHIN A BASIN IN THE STATE, CREATED BY INTERSTATE COMPACT OR FEDERAL
27 INTERSTATE COMPACT, INCLUDING BUT NOT LIMITED TO, THE SUSQUEHANNA RIVER
28 BASIN COMMISSION AND THE DELAWARE RIVER BASIN COMMISSION.

29 8. "INTERBASIN DIVERSION" SHALL MEAN THE WITHDRAWAL, DIVERSION, OR
30 PUMPING OF SURFACE WATER FROM ONE SUBREGIONAL DRAINAGE BASIN OR THE
31 WITHDRAWAL OF GROUNDWATER FROM A POINT LOCATED WITHIN OR BENEATH ONE
32 SUBREGIONAL DRAINAGE BASIN AND RELEASE OF ALL OR ANY PART OF THE WATER
33 IN ANOTHER SUBREGIONAL DRAINAGE BASIN. A SUBREGIONAL DRAINAGE BASIN IS
34 DEFINED BY THE FOUR DIGIT HYDROLOGIC UNIT CODE OF THE UNITED STATES
35 GEOLOGICAL SURVEY.

36 9. "PERSON" SHALL MEAN ANY INDIVIDUAL, PUBLIC OR PRIVATE CORPORATION,
37 POLITICAL SUBDIVISION, GOVERNMENT AGENCY, DEPARTMENT OR BUREAU OF THE
38 STATE, MUNICIPALITY, INDUSTRY, CO-PARTNERSHIP, ASSOCIATION, FIRM, TRUST,
39 ESTATE OR ANY OTHER LEGAL ENTITY WHATSOEVER.

40 10. "POTABLE" SHALL MEAN WATER INTENDED FOR HUMAN CONSUMPTION THAT
41 MEETS THE REQUIREMENTS ESTABLISHED BY 10 NYCRR 5-1.

42 11. "PUBLIC WATER SUPPLY SYSTEM" SHALL MEAN A PERMANENTLY INSTALLED
43 WATER WITHDRAWAL SYSTEM INCLUDING ITS SOURCE, COLLECTION, PUMPING,
44 TREATMENT, TRANSMISSION, STORAGE AND DISTRIBUTION FACILITIES USED IN
45 CONNECTION WITH SUCH SYSTEM, WHICH PROVIDES PIPED WATER TO THE PUBLIC
46 FOR POTABLE PURPOSES, IF SUCH SYSTEM HAS AT LEAST FIVE SERVICE
47 CONNECTIONS USED BY YEAR-ROUND RESIDENTS.

48 12. "THRESHOLD VOLUME" SHALL MEAN THE WITHDRAWAL OF WATER OF A VOLUME
49 OF FIFTY THOUSAND GALLONS OR MORE PER DAY, DETERMINED BY THE LIMITING
50 MAXIMUM CAPACITY OF THE WATER WITHDRAWAL, TREATMENT, OR CONVEYANCE
51 SYSTEM.

52 13. "ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASIBLE WATER CONSERVA-
53 TION MEASURES" SHALL MEAN THOSE MEASURES, METHODS, TECHNOLOGIES OR PRAC-
54 TICES FOR EFFICIENT WATER USE AND FOR REDUCTION OF WATER LOSS AND WASTE
55 OR FOR REDUCING A WITHDRAWAL OR DIVERSION THAT: (A) ARE ENVIRONMENTALLY
56 SOUND, (B) REFLECT BEST PRACTICES APPLICABLE TO THE WATER USE SECTOR,

(C) CONSIDER THE PARTICULAR FACILITIES AND PROCESSES INVOLVED, TAKING INTO ACCOUNT THE ENVIRONMENTAL IMPACT, AGE OF EQUIPMENT AND FACILITIES INVOLVED, THE PROCESSES EMPLOYED, ENERGY IMPACTS AND OTHER APPROPRIATE FACTORS, (D) ARE DESIGNED TO REDUCE THE DEMAND FOR WATER; (E) ARE DESIGNED TO IMPROVE EFFICIENCY IN WATER USE; (F) ARE DESIGNED TO REDUCE LEAKAGE, LOSSES AND WASTE OF WATER; (G) ARE DESIGNED TO IMPROVE REUSE AND RECYCLING OF WATER; AND (H) IMPROVE LAND MANAGEMENT PRACTICES TO CONSERVE WATER OR TO PRESERVE OR INCREASE GROUNDWATER RECHARGE.

14. "WATER WITHDRAWAL SYSTEM" SHALL MEAN A PHYSICAL INTERCONNECTED INFRASTRUCTURE OPERATED AND MAINTAINED FOR THE PROVISION OF WATER INCLUDING, BUT NOT LIMITED TO, COLLECTION, PUMPING, TREATMENT, TRANSMISSION, STORAGE AND DISTRIBUTION FACILITIES USED IN CONNECTION WITH THE WITHDRAWAL OF WATER.

15. "WITHDRAWAL" OR "WITHDRAWAL OF WATER" SHALL MEAN THE REMOVAL OR TAKING OF WATER FOR ANY PURPOSE FROM THE WATERS OF THE STATE.

S 20. Section 15-1503 of the environmental conservation law, as amended by chapter 364 of the laws of 1988, is amended to read as follows:

S 15-1503. Permits.

1. A permit application or request for a permit renewal or modification shall be made on [forms provided] A FORM PRESCRIBED by the department and shall [be accompanied by] CONTAIN ALL INFORMATION REQUESTED BY THE DEPARTMENT RELATIVE TO THE WATER WITHDRAWAL, USE AND DISCHARGE, INCLUDING BUT NOT LIMITED TO:

A. WITH RESPECT TO A PUBLIC WATER SUPPLY SYSTEM, proof of adequate authorization for the proposed project[,];

B. such exhibits as may be necessary clearly to indicate the scope of the proposed project[,];

C. a map of any lands to be acquired [and];

D. project plans[. The application shall also indicate];

E. A STATEMENT OF the need for and the reasons why the proposed source or sources of supply were selected among the alternative sources which are or may become available[,] AND the adequacy of the supply selected [and the method proposed to determine and provide for the proper compensation for any direct and indirect legal damages to persons or property that will result from the acquisition of any lands in connection with the proposed project or from the execution of the proposed project. The application shall also contain, in accordance with local water resource needs and conditions,]; AND

F. a description of the applicant's PROPOSED near term and long range water conservation program THAT COMPLIES WITH ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES AS DEFINED IN THIS SECTION, including implementation [and enforcement] procedures, effectiveness to date and any planned modifications for the future. [Such] FOR A PUBLIC WATER SUPPLY SYSTEM, THE WATER CONSERVATION program may include but [shall] NEED not be limited to:

[a.] I. the identification of and cost effectiveness of distribution system rehabilitation to correct sources of lost water;

[b.] II. measures which encourage proper maintenance and water conservation;

[c.] III. a public information program to promote water conservation, including industrial and commercial recycling and reuse;

[d.] IV. household conservation measures; and

[e.] V. contingency measures for limiting water use during seasonal or drought shortages. If the proposed project provides for the use of water for potable purposes, the application shall also include adequate proof

1 of the character and purity of the water supply to be acquired or used
2 and the proposed method of treatment.

3 G. ANY POTENTIAL INDIVIDUAL OR CUMULATIVE ADVERSE IMPACTS THAT MAY
4 RESULT FROM THE PROPOSED WATER WITHDRAWAL.

5 2. [In making its decision to grant or deny a permit or to grant a
6 permit with conditions, the department shall determine whether the
7 proposed project is justified by the public necessity, whether it takes
8 proper consideration of other sources of supply that are or may become
9 available, whether all work connected with the project will be proper
10 and construction safe, whether the supply will be adequate, whether
11 there will be proper protection of the supply and watershed or whether
12 there will be proper treatment of any additional supply, whether the
13 project is just and equitable to all affected municipalities and their
14 inhabitants and in particular with regard to their present and future
15 needs for sources of water supply, whether there is provision for fair
16 and equitable determinations of and payments of any direct and indirect
17 legal damages to persons or property that will result from the acqui-
18 sition of any lands in connection with the proposed project or from the
19 execution of the proposed project, and whether the applicant has devel-
20 oped and implemented a water conservation program in accordance with
21 local water resource needs and conditions. If the proposed project is a
22 multi-purpose project, in whole or in part authorized by a general plan
23 adopted and approved pursuant to title 11 of this article, the depart-
24 ment in addition shall determine if the proposed project is in conformi-
25 ty with the general plan.] IN MAKING ITS DECISION TO GRANT OR DENY A
26 PERMIT OR TO GRANT A PERMIT WITH CONDITIONS, THE DEPARTMENT SHALL ONLY
27 ISSUE A PERMIT IF THE PROPOSED WITHDRAWAL MEETS THE FOLLOWING CRITERIA:

28 A. THE WITHDRAWAL WILL BE IMPLEMENTED SO AS TO ENSURE THAT THE
29 PROPOSAL WILL RESULT IN NO SIGNIFICANT INDIVIDUAL OR CUMULATIVE ADVERSE
30 IMPACTS TO THE QUANTITY OR QUALITY OF THE WATERS AND WATER DEPENDENT
31 NATURAL RESOURCES AS DEFINED IN SECTION 1.2 OF ARTICLE 1 OF SECTION
32 21-1001 OF THIS CHAPTER;

33 B. THE WITHDRAWAL WILL IMPLEMENT ENVIRONMENTALLY SOUND AND ECONOM-
34 ICALLY FEASIBLE WATER CONSERVATION MEASURES;

35 C. THE WITHDRAWAL, WILL BE IMPLEMENTED SO AS TO ENSURE THAT IT IS IN
36 COMPLIANCE WITH ALL APPLICABLE MUNICIPAL, STATE AND FEDERAL LAWS AS WELL
37 AS REGIONAL INTERSTATE AND INTERNATIONAL AGREEMENTS;

38 D. THE PROPOSED USE IS REASONABLE, BASED UPON CONSIDERATION OF THE
39 FOLLOWING FACTORS:

40 I. WHETHER THE PROPOSED WITHDRAWAL IS PLANNED IN A FASHION THAT
41 PROVIDES FOR EFFICIENT USE OF THE WATER, AND WILL AVOID OR MINIMIZE THE
42 WASTE OF WATER;

43 II. IF THE PROPOSAL IS FOR AN INCREASED WITHDRAWAL, WHETHER EFFICIENT
44 USE IS MADE OF EXISTING WATER SUPPLIES AND WHETHER THE NEED FOR ALL OR
45 PART OF THE PROPOSED WITHDRAWAL COULD BE REASONABLY AVOIDED THROUGH THE
46 EFFICIENT USE AND CONSERVATION OF EXISTING WATER SUPPLIES;

47 III. THE PROBABLE DEGREE AND DURATION OF ANY ADVERSE IMPACTS CAUSED OR
48 EXPECTED TO BE CAUSED BY THE PROPOSED WITHDRAWAL UNDER FORESEEABLE
49 CONDITIONS, TO OTHER LAWFUL CONSUMPTIVE OR NON-CONSUMPTIVE USES OF WATER
50 OR TO THE QUANTITY OR QUALITY OF THE WATERS AND WATER DEPENDENT
51 RESOURCES, AND THE PROPOSED PLANS AND ARRANGEMENTS FOR AVOIDANCE OR
52 MITIGATION OF SUCH IMPACTS;

53 E. THE PROPOSED WATER WITHDRAWAL TAKES PROPER CONSIDERATION OF OTHER
54 SOURCES OF SUPPLY THAT ARE OR MAY BECOME AVAILABLE;

55 F. THE QUANTITY OF SUPPLY WILL BE ADEQUATE FOR THE PROPOSED USE;

1 G. THE PROPOSED WITHDRAWAL WILL NOT ADVERSELY IMPACT EXISTING GROUND
2 OR SURFACE WATER USERS, WILL NOT ADVERSELY IMPACT THE NATURAL REPLENISH-
3 MENT OF THE WATER RESOURCES, WILL NOT CAUSE OR CONTRIBUTE TO A VIOLATION
4 OF STATE WATER QUALITY STANDARDS, AND WILL NOT ADVERSELY IMPACT THE
5 RELIABILITY AND SAFE YIELD OF HYDROLOGICALLY INTERCONNECTED WATER SOURC-
6 ES;

7 H. THE PROPOSED WITHDRAWAL MAY RESULT IN SIGNIFICANT ADVERSE IMPACTS
8 TO PROXIMATE MUNICIPALITIES AND THEIR INHABITANTS WITH REGARD TO THEIR
9 PRESENT AND FUTURE NEEDS FOR SOURCES OF POTABLE WATER SUPPLY;

10 I. THE NEED FOR ALL OR PART OF THE PROPOSED WATER WITHDRAWAL CANNOT BE
11 REASONABLY AVOIDED THROUGH THE EFFICIENT USE AND CONSERVATION OF EXIST-
12 ING WATER SUPPLIES;

13 J. THE PROPOSED WATER WITHDRAWAL IS LIMITED TO QUANTITIES THAT ARE
14 CONSIDERED REASONABLE FOR THE PURPOSES FOR WHICH THE WATER USE IS
15 PROPOSED;

16 K. THE PROPOSED WATER WITHDRAWAL WILL BE IMPLEMENTED IN A MANNER THAT
17 INCORPORATES ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASIBLE WATER
18 CONSERVATION MEASURES AS DEFINED IN THIS SECTION;

19 L. THE PROPOSED WATER WITHDRAWAL WILL BE IMPLEMENTED IN A MANNER THAT
20 IS CONSISTENT WITH APPLICABLE MUNICIPAL, STATE AND FEDERAL LAWS AS WELL
21 AS REGIONAL INTERSTATE AND INTERNATIONAL AGREEMENTS;

22 M. THE WITHDRAWAL IS CONSISTENT WITH THE STATE'S WATER CONSERVATION
23 GOALS INCLUDING THE FOLLOWING:

24 I. APPLICATION OF BEST MANAGEMENT PRACTICES TO DETECT AND REPAIR WATER
25 LEAKS;

26 II. IDENTIFICATION AND INSTALLATION OF STATE-OF-THE-ART WATER-CONSERV-
27 ING FIXTURES;

28 III. EMPLOYEE TRAINING REGARDING APPROPRIATE WATER CONSERVATION TECH-
29 NIQUES;

30 IV. PUBLIC EDUCATION REGARDING WATER CONSERVATION IN CONNECTION WITH
31 THE USE OF WATER FOR WHICH THE APPLICANT'S PERMIT IS GRANTED; AND

32 V. OTHER WATER CONSERVATION MEASURES AND GOALS INCLUDING PRICING,
33 CONSERVATION MEASURES, DROUGHT PROTECTION MEASURES, AND LIMITING UNAC-
34 COUNTED-FOR WATER;

35 N. IF ANY OF THE ABOVE TERMS ARE NOT MET, THE DEPARTMENT SHALL REQUIRE
36 THE APPLICANT TO ADJUST THE WATER WITHDRAWAL APPLICATION TO COMPLY WITH
37 THE REQUIREMENTS OF THIS SUBSECTION. IF THE APPLICANT CHOOSES NOT TO
38 ADJUST THE APPLICATION ACCORDINGLY, THE DEPARTMENT SHALL DENY THE APPLI-
39 CATION;

40 O. FOR WATER WITHDRAWAL PROPOSALS WITHIN THE GREAT LAKES BASIN, ALL
41 WATER WITHDRAWN WITHIN THE GREAT LAKES BASIN SHALL BE RETURNED, EITHER
42 NATURALLY OR AFTER USE, TO THE SOURCE WATERSHED LESS AN ALLOWANCE FOR
43 CONSUMPTIVE USE.

44 3. BEFORE DECIDING TO GRANT OR DENY AN APPLICATION FOR A WATER WITH-
45 DRAWAL PERMIT, AS SET FORTH UNDER THIS CHAPTER, THE DEPARTMENT SHALL
46 PROVIDE A PUBLIC COMMENT PERIOD ON THE DRAFT AND ASSOCIATED DOCUMENTS
47 (INCLUDING BUT NOT LIMITED TO THE PERMIT APPLICATION) OF NO LESS THAN
48 THIRTY DAYS. FURTHER, THE DEPARTMENT SHALL PROVIDE THE OPPORTUNITY FOR A
49 PUBLIC HEARING, UPON THIRTY DAYS NOTICE, WHENEVER IT DETERMINES THAT
50 THERE MAY BE SIGNIFICANT PUBLIC INTEREST IN THE PROPOSED WATER WITH-
51 DRAWAL PERMIT.

52 [3.] 4. In order to assist the development of local water conservation
53 plans FOR PUBLIC WATER SUPPLY SYSTEMS, the department shall[, by the
54 effective date of this subdivision,] CONTINUE TO publish and distribute
55 a [model local water conservation plan] WATER CONSERVATION MANUAL that
56 includes beneficial near term and long range water conservation proce-

dures which reflect local water resource needs and conditions. Such plan shall include examples of:

- a. methods of identifying and determining the cost effectiveness of distribution system rehabilitation to correct sources of lost water;
- b. measures which encourage proper maintenance and water conservation;
- c. a public information program to promote water conservation, including industrial and commercial recycling and reuse;
- d. household conservation measures; and
- e. contingency measures for limiting water use during seasonal or drought shortages.

[4.] 5. The department may grant or deny a permit or grant a permit with such conditions as may be necessary to provide satisfactory compliance by the applicant with the matters subject to department determination pursuant to subdivision [2] TWO of this section, or to bring into cooperation all persons or public corporations that may be affected by the project, but it shall make a reasonable effort to meet the needs of the applicant, with due regard to the actual or prospective needs, interests and rights of others that may be affected by the project.

[5.] 6. The rules and regulations adopted by the department to implement this title and the provisions of article 70 of this chapter and rules and regulations adopted thereunder shall govern permit applications, renewals, modifications, suspensions and revocations under this title.

7. A NEW PERMIT FOR A WATER WITHDRAWAL SYSTEM SHALL BE VALID FOR A PERIOD OF TIME NOT TO EXCEED FIVE YEARS FROM THE DATE OF ISSUANCE, UPON WHICH TIME A REQUEST FOR A RENEWAL MUST BE FILED WITH THE DEPARTMENT. A RENEWAL SHALL BE VALID FOR A PERIOD OF TIME SPECIFIED BY THE DEPARTMENT NOT TO EXCEED FIVE YEARS. A PERMIT APPLICATION MUST BE FILED WITH THE DEPARTMENT UPON ANY TRANSFER OR CHANGE OF OWNERSHIP OF A WATER WITHDRAWAL SYSTEM.

8. ALL HOLDERS OF WATER WITHDRAWAL PERMITS ISSUED BY THE DEPARTMENT UNDER THIS LAW SHALL BE REQUIRED TO CONDUCT CONTINUOUS ON-SITE MONITORING OF WATER WITHDRAWAL VOLUMES USING MONITORING SYSTEMS APPROVED BY THE DEPARTMENT. SUCH RECORDS SHALL BE MADE AVAILABLE TO THE DEPARTMENT OR THE PUBLIC UPON REQUEST.

S 21. Section 15-1505 of the environmental conservation law, as amended by chapter 233 of the laws of 1979, is amended to read as follows:

S 15-1505. [Water] INTERBASIN DIVERSIONS AND WATER supply to other states.

1. No person or public corporation shall transport or carry through pipes, conduits, ditches or canals the waters of any fresh water lake, pond, brook, river, stream, or creek in this state or any well, subsurface or percolating waters of this state into any other state for use therein without first obtaining a permit from the department pursuant to this title.

2. NO PERSON MAY MAKE A NEW OR INCREASED INTERBASIN DIVERSION OF WATER WHICH RESULTS IN A DIVERSION IN EXCESS OF ONE MILLION GALLONS PER DAY AS DETERMINED BY THE LIMITING MAXIMUM CAPACITY OF THE TREATMENT OR CONVEYANCE SYSTEM, OR CONSTRUCT FACILITIES OR EQUIPMENT THEREFOR, UNTIL SUCH PERSON HAS REGISTERED SUCH DIVERSION WITH THE DEPARTMENT. NO LATER THAN ONE YEAR FROM THE EFFECTIVE DATE OF THIS SUBDIVISION, ALL EXISTING INTERBASIN DIVERSIONS OF WATER IN EXCESS OF ONE MILLION GALLONS PER DAY SHALL BE REGISTERED WITH THE DEPARTMENT.

3. THE DEPARTMENT IS AUTHORIZED TO ASSESS AN ANNUAL REGISTRATION FEE OF TWO HUNDRED DOLLARS FOR ALL PERSONS REQUIRED TO REGISTER AN INTERBA-

1 SIN DIVERSION. SUCH FEE SHALL BE PAID AT THE TIME OF REGISTRATION OR
2 REGISTRATION RENEWAL. ALL FEES COLLECTED PURSUANT TO THIS SECTION SHALL
3 BE PAID INTO THE ENVIRONMENTAL CONSERVATION SPECIAL REVENUE FUND TO THE
4 CREDIT OF THE ENVIRONMENTAL REGULATORY ACCOUNT. THE REGISTRATION FEE
5 SHALL NOT BE APPLICABLE TO AN INTERBASIN DIVERSION WHICH IS PART OF A
6 WATER WITHDRAWAL SYSTEM FOR WHICH THE DEPARTMENT HAS ISSUED A PERMIT
7 UNDER THIS TITLE. REGISTRATION SHALL BE RENEWED EVERY YEAR OR WHENEVER
8 TITLE TO THE FACILITIES WHICH CREATE AN INTERBASIN DIVERSION IS TRANS-
9 FERRED, WHICHEVER OCCURS FIRST. REGISTRATION SHALL BE MADE ON FORMS
10 PRESCRIBED BY THE DEPARTMENT AND SHALL CONTAIN ALL INFORMATION REQUESTED
11 BY THE DEPARTMENT RELATIVE TO THE WATER WITHDRAWAL, USE AND DISCHARGE.
12 EACH PERSON WHO IS REQUIRED UNDER THIS SECTION TO HOLD A REGISTRATION
13 SHALL ANNUALLY, ON A FORM PRESCRIBED BY THE DEPARTMENT, REPORT ALL
14 INFORMATION REQUESTED BY THE DEPARTMENT, INCLUDING THE AMOUNT OF WATER
15 DIVERTED. SUCH INFORMATION SHALL BE POSTED ON THE DEPARTMENT'S WEBSITE.
16 4. NO PERSON SHALL BE AUTHORIZED TO MAKE A NEW OR INCREASED INTERBASIN
17 DIVERSION WHICH RESULTS IN A SIGNIFICANT ADVERSE IMPACT ON THE WATER
18 QUANTITY OF THE SOURCE SUBREGIONAL DRAINAGE BASIN.

19 5. AN INTERBASIN DIVERSION WILL ONLY BE PERMITTED AND IMPLEMENTED SO
20 AS TO ENSURE THAT IT IS IN COMPLIANCE WITH ALL APPLICABLE MUNICIPAL,
21 STATE, AND FEDERAL LAWS AS WELL AS REGIONAL INTERSTATE AND INTERNATIONAL
22 AGREEMENTS. IN THE GREAT LAKES BASIN ALL INTERBASIN DIVERSIONS WILL
23 COMPLY WITH THE GREAT LAKES - ST. LAWRENCE RIVER BASIN WATER RESOURCES
24 COMPACT.

25 S 22. Section 15-1521 of the environmental conservation law, as
26 amended by chapter 233 of the laws of 1979, is amended to read as
27 follows:

28 S 15-1521. Supply of water to other public water supply systems.

29 On any application for a new or additional WITHDRAWAL OF WATER FOR A
30 PUBLIC water supply [or source of water supply], the department may
31 require or authorize [any] THE applicant to make provisions for the
32 supply and to supply PUBLIC water to any area of the state which as
33 determined by the department in its decision on that application proper-
34 ly should be supplied with PUBLIC water from the source or sources of
35 water supply sought by the applicant. The owner or operator of any
36 existing or proposed [water works] PUBLIC WATER SUPPLY system within
37 such area may apply to the department for a permit to take water from
38 that source of water supply or from any part of the PUBLIC water supply
39 system of the applicant supplied in whole or in part from that source.
40 If the department so requires, or if it grants a permit, it shall be the
41 duty of the applicant so to supply water, subject to such requirements
42 as the department may impose. The amount of water so to be taken and the
43 price to be paid therefor may be agreed upon between the applicant and
44 the taker of the water, or if they cannot agree, fair and reasonable
45 amounts and rates shall be, after due hearings thereon, fixed by the
46 department, provided however, that such department shall have no power
47 to fix rates in any case where the Public Service Commission has such
48 power, and provided further, that nothing in this section contained
49 shall be construed as diminishing the powers of said Public Service
50 Commission in respect to rates of water works companies subject to its
51 jurisdiction. Any such agreement or determination of the department may
52 from time to time be modified by further agreement between the parties
53 affected thereby or by the further order of the department.

54 S 23. Section 15-1529 of the environmental conservation law is amended
55 to read as follows:

1 S 15-1529. [Final approval of work] APPROVAL OF COMPLETED WATER WITH-
2 DRAVAL SYSTEMS.

3 [Before any project authorized to be developed or carried out under
4 this title 15 shall be operated, it must, as completed, have been
5 approved by the department] THE CONSTRUCTION OF ANY NEW OR MODIFIED
6 WATER WITHDRAWAL SYSTEM AUTHORIZED UNDER THIS TITLE SHALL BE UNDER THE
7 GENERAL SUPERVISION OF A PERSON OR FIRM LICENSED TO PRACTICE PROFES-
8 SIONAL ENGINEERING IN THE STATE. UPON COMPLETION OF CONSTRUCTION, SUCH
9 PERSON OR FIRM SHALL CERTIFY TO THE DEPARTMENT AND THE OWNER THAT THE
10 WATER WITHDRAWAL SYSTEM HAS BEEN FULLY COMPLETED IN ACCORDANCE WITH THE
11 APPROVED ENGINEERING REPORT, PLANS AND SPECIFICATIONS, AND THE PERMIT
12 ISSUED BY THE DEPARTMENT PURSUANT TO THIS TITLE. THE OWNER SHALL NOT
13 COMMENCE OPERATION OF THE NEW OR MODIFIED WATER WITHDRAWAL SYSTEM PRIOR
14 TO THE DEPARTMENT RECEIVING SUCH CERTIFICATE AND BEFORE APPROVAL, IF
15 NECESSARY, BY THE DEPARTMENT OF HEALTH OR ITS DESIGNEE.

16 S 24. The environmental conservation law is amended by adding a new
17 section 15-1531 to read as follows:

18 S 15-1531. REPORTING.

19 THE COMMISSIONER SHALL, WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS
20 SECTION, AND THEREAFTER AS OFTEN AS THE COMMISSIONER DEEMS APPROPRIATE,
21 REPORT TO THE GOVERNOR AND THE LEGISLATURE ON THE IMPLEMENTATION OF THIS
22 TITLE. THE REPORT MAY INCLUDE BUT NEED NOT BE LIMITED TO RECOMMENDATIONS
23 FOR MODIFICATIONS TO THIS TITLE, INCLUDING BUT NOT LIMITED TO MODIFICA-
24 TIONS TO THE THRESHOLD VOLUME PROVIDED IN THIS TITLE FOR PARTICULAR
25 WATER SOURCES, WATERSHEDS, WATER BODIES OR REGIONS, WHERE THE DEPARTMENT
26 HAS DETERMINED THAT SUCH WATER SOURCES, WATERSHEDS, WATER BODIES OR
27 REGIONS ARE IN NEED OF SPECIAL PROTECTION BECAUSE OF THE NATURE OR
28 VOLUME OF DEMANDS MADE UPON THEM AND A MODIFICATION IS NECESSARY TO
29 PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE.

30 S 25. Title 33 of article 15 of the environmental conservation law is
31 REPEALED and a new title 33 is added to read as follows:

32 TITLE 33

33 WATER USE STANDARDS

34 SECTION 15-3301. WATER USE STANDARDS.

35 S 15-3301. WATER USE STANDARDS.

36 THE DEPARTMENT SHALL ADOPT RULES ESTABLISHING WATER USE STANDARDS FOR
37 MAINTAINING IN-STREAM FLOWS THAT ARE PROTECTIVE OF AQUATIC LIFE AND
38 OTHER USES AND THAT ESTABLISH CRITERIA FOR DESIGNATING WATERSHEDS MOST
39 AT RISK FROM CUMULATIVE WATER USE. STANDARDS ADOPTED UNDER THIS SECTION
40 MUST BE BASED ON THE NATURAL VARIATION OF FLOWS AND WATER LEVELS, ALLOW-
41 ING FOR VARIANCES IF USE WILL STILL BE PROTECTIVE OF WATER QUALITY WITH-
42 IN THAT CLASSIFICATION.

43 S 26. Subdivision 1 of section 71-1127 of the environmental conserva-
44 tion law, as amended by chapter 640 of the laws of 1977, is amended to
45 read as follows:

46 1. Any person who violates any of the provisions of, or who fails to
47 perform any duty imposed by article 15 except section 15-1713, or who
48 violates or who fails to comply with any rule, regulation, determination
49 or order of the department heretofore or hereafter promulgated pursuant
50 to article 15 except section 15-1713, or any condition of a permit
51 issued pursuant to article 15 of this chapter, or any determination or
52 order of the former water resources commission or the [Department of
53 Environmental Conservation] DEPARTMENT heretofore promulgated pursuant
54 to former article 5 of the Conservation Law, shall be liable for a civil
55 penalty of not more than TWO THOUSAND five hundred dollars for such
56 violation and an additional civil penalty of not more than [one] FIVE

1 hundred dollars for each day during which such violation continues, and,
2 in addition thereto, such person may be enjoined from continuing such
3 violation as otherwise provided in article 15 except section 15-1713.

4 S 27. Article 72 of the environmental conservation law is amended by
5 adding a new title 8 to read as follows:

6 TITLE 8

7 WATER SUPPLY PERMIT PROGRAM FEES

8 SECTION 72-0801. DEFINITIONS.

9 72-0802. WATER SUPPLY PERMIT PROGRAM FEES.

10 S 72-0801. DEFINITIONS.

11 WHEN USED IN THIS TITLE:

12 1. "AGRICULTURAL PURPOSE" SHALL MEAN THE PRACTICE OF FARMING FOR
13 CROPS, PLANTS, VINES AND TREES; AND THE KEEPING, GRAZING, OR FEEDING OF
14 LIVESTOCK FOR SALE OF LIVESTOCK OR LIVESTOCK PRODUCTS.

15 2. "PUBLIC WATER SUPPLY PURPOSE" SHALL MEAN WATER USE BY A PUBLIC
16 WATER SUPPLY SYSTEM.

17 3. "WATER SUPPLY PERMIT PROGRAM" MEANS THOSE ACTIVITIES OF THE DEPART-
18 MENT AS SPECIFIED IN TITLE FIFTEEN OF ARTICLE FIFTEEN OF THIS CHAPTER
19 RELATED TO THE WITHDRAWAL OF WATERS OF THE STATE AND ANY RELATED
20 ENFORCEMENT ACTIVITIES.

21 S 72-0802. WATER SUPPLY PERMIT PROGRAM FEES.

22 1. EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, ALL PERSONS, EXCEPT A
23 POLITICAL SUBDIVISION OF THE STATE, OR AN AGENCY, DEPARTMENT, BUREAU,
24 PUBLIC AUTHORITY OF THE STATE, OR PERSONS MAKING WITHDRAWALS FOR AN
25 AGRICULTURAL PURPOSE WHO ARE TO OBTAIN A PERMIT PURSUANT TO THE WATER
26 SUPPLY PERMIT PROGRAM SHALL SUBMIT ANNUALLY TO THE DEPARTMENT A FEE, FOR
27 EACH WATER WITHDRAWAL SYSTEM, IN AN AMOUNT TO BE DETERMINED AS FOLLOWS:

28 A. FIFTY DOLLARS FOR A WATER WITHDRAWAL SYSTEM WITH A CAPACITY OF LESS
29 THAN ONE MILLION GALLONS PER DAY, USED PRIMARILY FOR PUBLIC WATER SUPPLY
30 PURPOSES;

31 B. ONE HUNDRED TWENTY-FIVE DOLLARS FOR A WATER WITHDRAWAL SYSTEM WITH
32 A CAPACITY OF BETWEEN ONE MILLION AND NINE MILLION NINE HUNDRED NINETY-
33 NINE THOUSAND NINE HUNDRED NINETY-NINE GALLONS PER DAY, USED PRIMARILY
34 FOR PUBLIC WATER SUPPLY PURPOSES;

35 C. TWO HUNDRED FIFTY DOLLARS FOR A WATER WITHDRAWAL SYSTEM WITH A
36 CAPACITY OF TEN MILLION GALLONS PER DAY OR MORE, USED PRIMARILY FOR
37 PUBLIC WATER SUPPLY PURPOSES;

38 D. TWO HUNDRED FIFTY DOLLARS FOR A WATER WITHDRAWAL SYSTEM WITH A
39 CAPACITY OF BETWEEN FIFTY THOUSAND AND NINETY-NINE THOUSAND NINE HUNDRED
40 NINETY-NINE GALLONS PER DAY, FOR ANY AND ALL USES WHICH ARE NOT PRIMARI-
41 LY FOR AGRICULTURAL OR PUBLIC WATER SUPPLY PURPOSES;

42 E. FIVE HUNDRED FIFTY DOLLARS FOR A WATER WITHDRAWAL SYSTEM WITH A
43 CAPACITY OF BETWEEN ONE HUNDRED THOUSAND AND ONE HUNDRED THOUSAND NINE
44 HUNDRED NINETY-NINE GALLONS PER DAY, FOR ANY AND ALL USES WHICH ARE NOT
45 PRIMARILY FOR AGRICULTURAL OR PUBLIC WATER SUPPLY PURPOSES;

46 F. ONE THOUSAND DOLLARS FOR A WATER WITHDRAWAL SYSTEM WITH A CAPACITY
47 OF BETWEEN TWO HUNDRED FIFTY THOUSAND GALLONS AND FOUR HUNDRED
48 NINETY-NINE THOUSAND NINE HUNDRED NINETY-NINE GALLONS PER DAY, FOR ANY
49 AND ALL USES WHICH ARE NOT PRIMARILY FOR AGRICULTURAL OR PUBLIC WATER
50 SUPPLY PURPOSES;

51 G. TWO THOUSAND FIVE HUNDRED DOLLARS FOR A WATER WITHDRAWAL SYSTEM
52 WITH A CAPACITY OF BETWEEN FIVE HUNDRED THOUSAND GALLONS AND NINE
53 HUNDRED NINETY-NINE THOUSAND NINE HUNDRED NINETY-NINE GALLONS PER DAY,
54 FOR ANY AND ALL USES WHICH ARE NOT PRIMARILY FOR AGRICULTURAL OR PUBLIC
55 WATER SUPPLY PURPOSES;

1 H. FIVE THOUSAND DOLLARS FOR A WATER WITHDRAWAL SYSTEM WITH A CAPACITY
2 OF BETWEEN ONE MILLION AND NINE MILLION NINE HUNDRED NINETY-NINE THOU-
3 SAND NINE HUNDRED NINETY-NINE GALLONS PER DAY, FOR ANY AND ALL USES
4 WHICH ARE NOT PRIMARILY FOR AGRICULTURAL OR PUBLIC WATER SUPPLY
5 PURPOSES;

6 I. SEVEN THOUSAND FIVE HUNDRED DOLLARS FOR A WATER WITHDRAWAL SYSTEM
7 WITH A CAPACITY OF BETWEEN TEN MILLION AND FORTY-NINE MILLION NINE
8 HUNDRED NINETY-NINE THOUSAND NINE HUNDRED NINETY-NINE GALLONS PER DAY,
9 FOR ANY AND ALL USES WHICH ARE NOT PRIMARILY FOR AGRICULTURAL OR PUBLIC
10 WATER SUPPLY PURPOSES;

11 J. TEN THOUSAND DOLLARS FOR A WATER WITHDRAWAL SYSTEM WITH A CAPACITY
12 OF FIFTY MILLION GALLONS PER DAY OR MORE, FOR ANY AND ALL USES WHICH ARE
13 NOT PRIMARILY FOR AGRICULTURAL OR PUBLIC WATER SUPPLY PURPOSES.

14 2. FOR THE PURPOSE OF DETERMINING THE APPROPRIATE FEE REQUIRED BY
15 SUBDIVISION ONE OF THIS SECTION, THE AMOUNT OF RECLAIMED WASTEWATER,
16 WHICH A PERSON WITHDRAWS FOR REUSE, SHALL NOT BE INCLUDED IN THE TOTAL
17 CAPACITY OF THE WATER WITHDRAWAL.

18 3. ALL FEES COLLECTED PURSUANT TO THIS ARTICLE SHALL BE PAID INTO THE
19 ENVIRONMENTAL CONSERVATION SPECIAL REVENUE FUND TO THE CREDIT OF THE
20 ENVIRONMENTAL REGULATORY ACCOUNT.

21 S 28. This act shall take effect immediately; provided, however that
22 section twenty-five of this act shall take effect upon the completion of
23 rule-making required in subdivision 3 of section 15-1501 of the environ-
24 mental conservation law and provided that the commissioner of the
25 department of environmental conservation shall notify the legislative
26 bill drafting commission upon the occurrence of the enactment of the
27 rules required under subdivision 3 of section 15-1501 of the environ-
28 mental conservation law in order that the commission may maintain an
29 accurate and timely effective data base of the official text of the laws
30 of the state of New York in furtherance of effectuating the provisions
31 of section 44 of the legislative law and section 70-b of the public
32 officers law.