STATE OF NEW YORK

5318--A

2011-2012 Regular Sessions

IN ASSEMBLY

February 15, 2011

Introduced by M. of A. Sweeney, Peoples-Stokes, Zebrowski, Gunther, Titone, Reilly, Spano, Jacobs, Paulin, Schimel, Englebright, Hoyt -- Multi-Sponsored by -- M. of A. Brennan, Gabryszak, Markey, McEneny, M. Miller, Pheffer, Robinson -- (at request of the Department of Environmental Conservation) -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to regulating the use of the state's water resources; and to repeal titles 16 and 33 of article 15 of such law relating to Great Lakes water conservation and management and water withdrawal reporting

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

Section 1. Section 15-1501 of the environmental conservation law, as amended by chapter 233 of the laws of 1979, is amended to read as follows:

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

1. Except as otherwise provided in this title, no person [or public corporation] who is [authorized and] engaged in, or proposing to engage in, the [acquisition, conservation, development, use and distribution of water for potable purposes, for the irrigation of agricultural lands, for projects taken pursuant to Article 5-D of the County Law, or for multi-purpose projects authorized by a general plan adopted and approved pursuant to title 11 of this article,] OPERATION OF A WATER WITHDRAWAL SYSTEM WITH A CAPACITY OF GREATER THAN OR EQUAL TO THE THRESHOLD VOLUME, shall have any power to do the following until such person [or public corporation] has first obtained a permit OR PERMIT MODIFICATION from the department pursuant to this title:

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

LBD08389-03-1
a. To [acquire or take] MAKE a water [supply] WITHDRAWAL FROM AN
EXISTING OR NEW SOURCE or an [additional] INCREASED water [supply] WITH-
DRAWAL from an existing [approved] PERMITTED source; [or]
b. To take or condemn lands for THE PROTECTION OF ANY EXISTING SOURCES
OF PUBLIC WATER SUPPLY; OR FOR THE DEVELOPMENT OR PROTECTION OF any new
or additional sources of PUBLIC water supply [or for the utilization of
such supplies]; [or]
c. To commence or undertake the construction of any works or projects
in connection with the proposed [plans] WITHDRAWAL; or
d. [To exercise any franchise hereafter granted to supply water to any
inhabitants of the state; or
e.] To extend its supply or distribution mains into [a municipality,
water district, water supply district, or other civil division of the
state wherein it] ANY NEW WATER SERVICE AREA OR EXTENSION THAT has not
[heretofore legally supplied water] BEEN APPROVED BY THE DEPARTMENT OR A
PREDECESSOR COMMISSION; or
[f. To construct any extension of its supply mains except within a
service area approved by the department after public hearing; or
g. To extend the boundaries of a water district; or
h. To supply water in or for use in any other municipality or civil
division of the state which owns and operates a water supply system
therein, or in any duly organized water supply or fire district supplied
with water by another person or public corporation]
E. TO MAKE A SIGNIFICANT CHANGE IN THE PRINCIPAL USE OF THE WATER
WITHDRAWAL SYSTEM FROM THAT SPECIFIED IN THE PERMIT, OR PERMIT APPLICA-
TION.
2. [A permit shall not be necessary for the extension of supply or
distributing mains or pipes of a municipal water supply plant into and
for the purpose of supplying water in any territory within the limits of
the municipality owning such plant, including territory which has not
been heretofore supplied with water by such plant, nor for the recon-
struction or replacement of existing facilities in connection with an
existing plant wherein the capacity of the plant is in no way increased,
nor for the construction of filtration or other treatment facilities
which will not in any way increase the amount of water which can be made
available from the present sources of supply. A permit shall not be
necessary for the extension of supply or distributing mains or pipes of
a county water authority into and for the purpose of supplying water in
any territory assigned to such county water authority within the limits
of the county but excluding territory specifically assigned to private
or other municipal water companies by the department which has not been
heretofore supplied with water by such county water authority, nor for
the reconstruction or replacement of existing facilities in connection
with an existing plant wherein the capacity of the plant is in no way
increased, nor for the construction of filtration or other treatment
facilities which will not in any way increase the amount of water which
can be made available from the present sources of supply, provided,
however, that nothing herein contained shall be held to authorize such
county water authority to enter into competition with, for the purpose
of service in the area served by the mains, the transmission or distrib-
ution mains of any other water works system, either publicly or private-
ly owned, already legally established in said county for the sale of
water at wholesale or retail, or which hereafter may legally be estab-
lished for said purpose; or to sell water to any other water works
system, either publicly or privately owned, and not now served by said
county authority] ALL VALID PUBLIC WATER SUPPLY PERMITS AND APPROVALS
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1. ISSUED BY THE DEPARTMENT OR ITS PREDECESSORS SHALL REMAIN IN FULL FORCE
2. AND EFFECT FOR THE PURPOSE OF SATISFYING THE PERMIT REQUIREMENTS OF
3. SUBDIVISION ONE OF THIS SECTION FOR EXISTING WATER WITHDRAWALS FROM A
4. SOURCE AND IN AN AMOUNT AUTHORIZED BY SUCH PERMIT OR APPROVAL. UNTIL
5. THE DEPARTMENT PROMULGATES REGULATIONS PURSUANT TO SUBDIVISION FOUR OF
6. THIS SECTION, NOTHING CONTAINED IN SUBDIVISION ONE OF THIS SECTION
7. CONCERNING PERMITS FROM THE DEPARTMENT SHALL BE APPLICABLE TO WATER
8. WITHDRAWALS OTHER THAN FOR A PUBLIC WATER SUPPLY SYSTEM.

3. Nothing CONTAINED in this [section provided] TITLE CONCERNING
9. PERMITS FROM THE DEPARTMENT FOR WATER WITHDRAWALS shall be deemed to
10. nullify the requirements [of Regulation 2, Chapter V] of the State Sanita-
11. tary Code[, as] APPLICABLE TO DRINKING WATER SUPPLIES, INCLUDING PUBLIC
12. WATER SYSTEMS AND BOTTLED WATER FACILITIES, in effect on [January 1,
13. 1960, that plans for a new water treatment plant for the treatment of an
14. existing public water supply or for any addition to or modification of
15. an existing water treatment plant, or for any addition to or modifica-
16. tion of a public water supply system which will or may affect the quali-
17. ty of the public water supply, shall be submitted to and approved by the
18. Commissioner of Health, which regulation has no application to a new or
19. additional source or sources of public water supply of a permanent char-
20. acter which require a permit from the Department of Environmental
21. Conservation under the provisions of this article] FEBRUARY 15, 2012, AS
22. MAY BE AMENDED FROM TIME TO TIME. NO SUPPLIER OF WATER SHALL MAKE,
23. INSTALL OR CONSTRUCT, OR ALLOW TO BE MADE, INSTALLED OR CONSTRUCTED, A
24. PUBLIC WATER SUPPLY SYSTEM OR ANY ADDITION OR DELETION TO OR MODIFICA-
25. TION OF A PUBLIC WATER SUPPLY SYSTEM UNTIL THE PLANS AND SPECIFICATIONS
26. THEREOF HAVE BEEN SUBMITTED TO AND APPROVED BY THE COMMISSIONER OF
27. HEALTH OR HIS OR HER DESIGNEE AS MAY BE REQUIRED BY THE STATE SANITARY
28. CODE.

4. THE DEPARTMENT SHALL PROMULGATE REGULATIONS TO IMPLEMENT A PERMIT-
29. TING PROGRAM FOR WATER WITHDRAWALS EQUAL TO OR GREATER THAN THE THRESH-
30. OLD VOLUME CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION WHICH SHALL
31. ESTABLISH: (A) MINIMUM STANDARDS FOR OPERATION AND NEW CONSTRUCTION OF
32. WATER WITHDRAWAL SYSTEMS; (B) MONITORING, REPORTING AND RECORDKEEPING
33. REQUIREMENTS; AND (C) PROTECTIONS FOR PRESENT AND FUTURE NEEDS FOR
34. SOURCES OF POTABLE WATER SUPPLY. SUCH REGULATIONS MAY ESTABLISH QUANTI-
35. TATIVE STANDARDS THAT MAINTAIN STREAM FLOWS PROTECTIVE OF AQUATIC LIFE,
36. CONSISTENT WITH THE POLICY OBJECTIVES OF THIS ARTICLE AND ANY OTHER
37. CONDITIONS, LIMITATIONS AND RESTRICTIONS THAT THE DEPARTMENT, IN CONSUL-
38. TATION WITH THE DEPARTMENT OF HEALTH, DETERMINES ARE NECESSARY TO
39. PROTECT THE ENVIRONMENT AND THE PUBLIC HEALTH, SAFETY AND WELFARE AND TO
40. ENSURE THE PROPER MANAGEMENT OF THE WATERS OF THE STATE. THE REGU-
41. LATIONS MAY ESTABLISH EXEMPTIONS FROM PERMITTING REQUIREMENTS IN ADDI-
42. TION TO THOSE EXEMPTIONS SPECIFIED IN THIS SECTION.

5. THE DEPARTMENT IS AUTHORIZED TO CONSOLIDATE EXISTING WATER SUPPLY
43. PERMITS FOR A PUBLIC WATER SUPPLY SYSTEM INTO ONE PERMIT, AND MAY
44. REQUIRE SUBMISSION OF AN APPLICATION FOR SUCH PERMIT WHERE THE DEPART-
45. MENT DETERMINES THAT SUCH ACTIONS ARE NECESSARY TO PROTECT THE ENVIRON-
46. MENT AND THE PUBLIC HEALTH, SAFETY AND WELFARE AND TO ENSURE THE PROPER
47. MANAGEMENT OF THE WATERS OF THE STATE.

6. EACH PERSON WHO IS REQUIRED UNDER THIS SECTION TO OBTAIN A PERMIT
48. SHALL ANNUALLY, ON A FORM PRESCRIBED BY THE DEPARTMENT, REPORT ALL
49. INFORMATION REQUESTED BY THE DEPARTMENT, INCLUDING BUT NOT LIMITED TO
50. WATER USAGE AND WATER CONSERVATION MEASURES UNDERTAKEN DURING THE
51. REPORTING PERIOD. INFORMATION ON WATER USAGE AND WATER CONSERVATION
52. MEASURES SHALL BE POSTED ON THE DEPARTMENT'S WEBSITE.
7. THE FOLLOWING WATER WITHDRAWALS ARE EXEMPT FROM THE PERMIT REQUIREMENTS ESTABLISHED BY THIS SECTION: (A) WITHDRAWALS USED FOR FIRE SUPPRESSION OR PUBLIC EMERGENCY PURPOSES; (B) WITHDRAWALS THAT HAVE RECEIVED AN APPROVAL FROM A COMPACT BASIN COMMISSION WHICH ADMINISTERS A PROGRAM GOVERNING WATER WITHDRAWALS; (C) CLOSED LOOP, STANDING COLUMN, OR SIMILAR NON-EXTRACTIVE GEOTHERMAL HEAT PUMPS; (D) WITHDRAWALS FOR WHICH A PERMIT HAS BEEN ISSUED PURSUANT TO THE REQUIREMENTS OF SECTION 15-1527 OF THIS TITLE; (E) EXISTING WITHDRAWALS FOR AGRICULTURAL PURPOSES PROVIDED THE WITHDRAWAL HAS BEEN REGISTERED WITH THE DEPARTMENT PURSUANT TO THE REQUIREMENTS OF TITLE SIXTEEN OF THIS ARTICLE OR REPORTED TO THE DEPARTMENT PURSUANT TO THE REQUIREMENTS OF TITLE THIRTY-THREE OF THIS ARTICLE ON OR BEFORE FEBRUARY FIFTEENTH, TWO THOUSAND TWELVE; AND (F) WITHDRAWALS AT REMEDIATION SITES CONDUCTED PURSUANT TO A FEDERAL OR STATE COURT ORDER OR FEDERAL OR STATE GOVERNMENT AGENCY AGREEMENT OR ORDER.

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

9. THE DEPARTMENT SHALL ISSUE AN INITIAL PERMIT, SUBJECT TO APPROPRIATE TERMS AND CONDITIONS AS REQUIRED UNDER THIS ARTICLE, TO ANY PERSON NOT EXEMPT FROM THE PERMITTING REQUIREMENTS OF THIS SECTION, FOR THE MAXIMUM WATER WITHDRAWAL CAPACITY REPORTED TO THE DEPARTMENT PURSUANT TO THE REQUIREMENTS OF TITLE SIXTEEN OR TITLE THIRTY-THREE OF THIS ARTICLE ON OR BEFORE FEBRUARY FIFTEENTH, TWO THOUSAND TWELVE.

Section 15-1502 of the environmental conservation law is amended by adding ten new subdivisions 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 to read as follows:


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

9. "ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES" SHALL MEAN THOSE MEASURES, METHODS, TECHNOLOGIES OR PRACTICES FOR EFFICIENT WATER USE AND FOR REDUCTION OF WATER LOSS AND WASTE OR FOR REDUCING A WITHDRAWAL, CONSUMPTIVE USE OR DIVERSION THAT: (I) ARE ENVIRONMENTALLY SOUND; (II) REFLECT BEST PRACTICES APPLICABLE TO THE WATER USE SECTOR; (III) ARE TECHNICALLY FEASIBLE AND AVAILABLE; (IV) ARE ECONOMICALLY FEASIBLE AND COST EFFECTIVE BASED ON AN ANALYSIS THAT CONSIDERS DIRECT AND AVOIDED ECONOMIC AND ENVIRONMENTAL COSTS; AND (V) 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.

10. "INTERBASIN DIVERSION" SHALL MEAN THE TRANSFER OF WATER OR WASTE-WATER FROM ONE NEW YORK MAJOR DRAINAGE BASIN TO ANOTHER DRAINAGE BASIN.

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

12. "POTABLE WATER" SHALL MEAN WATER INTENDED FOR HUMAN CONSUMPTION THAT MEETS THE REQUIREMENTS FOR A PUBLIC WATER SYSTEM AS SET FORTH IN THE STATE SANITARY CODE.

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

14. "THRESHOLD VOLUME" SHALL MEAN THE WITHDRAWAL OF WATER OF A VOLUME OF ONE HUNDRED THOUSAND GALLONS OR MORE PER DAY, DETERMINED BY THE LIMITING MAXIMUM CAPACITY OF THE WATER WITHDRAWAL, TREATMENT, OR CONVEYANCE SYSTEM; PROVIDED THAT FOR AGRICULTURAL PURPOSES THE THRESHOLD VOLUME SHALL MEAN A WITHDRAWAL OF WATER OF A VOLUME IN EXCESS OF AN AVERAGE OF ONE HUNDRED THOUSAND GALLONS PER DAY IN ANY CONSECUTIVE THIRTY-DAY PERIOD.

15. "WATER WITHDRAWAL SYSTEM" SHALL MEAN ANY EQUIPMENT OR INFRASTRUCTURE OPERATED OR MAINTAINED FOR THE PROVISION OR WITHDRAWAL OF WATER INCLUDING, BUT NOT LIMITED TO, COLLECTION, PUMPING, TREATMENT, TRANSMISSION, STORAGE, AND DISTRIBUTION.

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

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


1. A permit application or request for a permit renewal or modification shall be made on forms [provided] PRESCRIBED by the department and shall [be accompanied by] CONTAIN ALL INFORMATION REQUESTED BY THE DEPARTMENT RELATIVE TO THE WITHDRAWAL, USE AND DISCHARGE OF WATER, INCLUDING:

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 INCORPORATES ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES, 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 of the character and purity of the water supply to be acquired or used and the proposed method of treatment.]

2. In making its decision to grant or deny a permit or to grant a permit with conditions, the department shall determine whether:
   A. the proposed [project is justified by the public necessity, whether it] WATER WITHDRAWAL takes proper consideration of other sources of supply that are or may become available[, whether all work connected with the project will be proper and construction safe, whether];
   B. the QUANTITY OF supply will be adequate[, whether there will be proper protection of the supply and watershed or whether there will be proper treatment of any additional supply, whether] FOR THE PROPOSED USE;
   C. the project is just and equitable to all affected municipalities and their inhabitants [and in particular] with regard to their present and future needs for sources of POTABLE water supply[, whether there is provision for fair and equitable determinations of and payments of 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, and whether the applicant has developed and implemented a water conservation program in accordance with local water resource needs and conditions. If the proposed project is a multi-purpose project, in whole or in part authorized by a general plan adopted and approved pursuant to title 11 of this article, the department in addition shall determine if the proposed project is in conformity with the general plan];
   D. THE NEED FOR ALL OR PART OF THE PROPOSED WATER WITHDRAWAL CANNOT BE REASONABLY AVOIDED THROUGH THE EFFICIENT USE AND CONSERVATION OF EXISTING WATER SUPPLIES;
   E. THE PROPOSED WATER WITHDRAWAL IS LIMITED TO QUANTITIES THAT ARE CONSIDERED REASONABLE FOR THE PURPOSES FOR WHICH THE WATER USE IS PROPOSED;
   F. THE PROPOSED WATER WITHDRAWAL WILL BE IMPLEMENTED IN A MANNER TO ENSURE IT WILL RESULT IN NO SIGNIFICANT INDIVIDUAL OR CUMULATIVE ADVERSE IMPACTS ON THE QUANTITY OR QUALITY OF THE WATER SOURCE AND WATER DEPENDENT NATURAL RESOURCES;
   G. THE PROPOSED WATER WITHDRAWAL WILL BE IMPLEMENTED IN A MANNER THAT INCORPORATES ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES; AND
   H. THE PROPOSED WATER WITHDRAWAL WILL BE IMPLEMENTED IN A MANNER THAT IS CONSISTENT WITH APPLICABLE MUNICIPAL, STATE AND FEDERAL LAWS AS WELL AS REGIONAL INTERSTATE AND INTERNATIONAL AGREEMENTS.

3. In order to assist the development of local water conservation [plans] PROGRAMS FOR PUBLIC WATER SUPPLY SYSTEMS, the department shall[, by the effective date of this subdivision,] CONTINUE TO publish and distribute a [model local water conservation plan] WATER CONSERVATION MANUAL that includes beneficial near term and long range water conservation procedures which reflect local water resource needs and conditions. Such [plan] MANUAL shall include examples of:
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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, includ-
ing industrial and commercial recycling and reuse;
d. household conservation measures; and
e. contingency measures for limiting water use during seasonal or
drought shortages.

4. 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 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. 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.

6. A NEW PERMIT FOR A WATER WITHDRAWAL SYSTEM AND ANY SUBSEQUENT
RENEWAL THEREOF SHALL BE VALID FOR A PERIOD OF TIME NOT TO EXCEED TEN
YEARS FROM THE DATE OF ISSUANCE. A NEW PERMIT OR PERMIT MODIFICATION
MUST BE OBTAINED FROM THE DEPARTMENT PRIOR TO ANY TRANSFER OR CHANGE OF
OWNERSHIP OF A WATER WITHDRAWAL SYSTEM.

S 4. The environmental conservation law is amended by adding a new
section 15-1504 to read as follows:

S 15-1504. WATER WITHDRAWALS FOR AGRICULTURAL PURPOSES.

1. APPLICABILITY.
A. THIS SECTION APPLIES TO WITHDRAWALS OF WATER FOR AGRICULTURAL
PURPOSES THAT HAVE BEEN REGISTERED WITH THE DEPARTMENT PURSUANT TO THE
REQUIREMENTS OF TITLE SIXTEEN OF THIS ARTICLE OR REPORTED TO THE DEPART-
MENT PURSUANT TO THE REQUIREMENTS OF TITLE THIRTY-THREE OF THIS ARTICLE
ON OR BEFORE FEBRUARY FIFTEENTH, TWO THOUSAND TWELVE.
B. ALL PERSONS MAKING A WITHDRAWAL OF WATER FOR AGRICULTURAL PURPOSES
SHALL ANNually REGISTER OR REPORT THE WITHDRAWAL TO THE DEPARTMENT UNDER
THE PROVISIONS OF THIS SECTION BY MARCH THIRTY-FIRST OF EACH YEAR.

2. WHEN USED IN THIS SECTION:
A. "GREAT LAKES BASIN" SHALL MEAN THE WATERSHED OF THE GREAT LAKES AND
THE ST. LAWRENCE RIVER, UPSTREAM FROM TROIS-RIVIERES, QUEBEC, CONSISTING
IN NEW YORK STATE OF THE LAKE ERIE-NIAGARA RIVER, LAKE ONTARIO MINOR
Tributaries, GENESEE RIVER, SENeca-ONEIDA-OSWEGO RIVER, BLACK RIVER, ST.
LAWRENCE RIVER AND LAKE CHAMPLAIN DRAINAGE BASINS.
B. "GREAT LAKES WATER" SHALL MEAN THE WATER CONTAINED IN THE
WATERSHED, INCLUDING THE LAKES AND RIVERS, OF THE GREAT LAKES BASIN.

3. REGISTRATION OF WATER WITHDRAWALS IN THE GREAT LAKES BASIN.
A. ALL PERSONS WITHDRAWING GREAT LAKES WATER FOR AGRICULTURAL PURPOSES
IN EXCESS OF AN AVERAGE OF ONE HUNDRED THOUSAND GALLONS PER DAY IN ANY
CONSECUTIVE THIRTY-DAY PERIOD SHALL ANNually REGISTER SUCH WITHDRAWAL
WITH THE DEPARTMENT.
B. EACH REGISTRATION SHALL BE ON A FORM AND CONTAIN SUCH INFORMATION
AS MAY BE PRESCRIBED BY THE DEPARTMENT AND CONSIST OF A STATEMENT OF AND
SUPPORTING DOCUMENTATION WHICH SHALL INCLUDE BUT NOT BE LIMITED TO THE
FOLLOWING:
(1) THE PLACE AND SOURCE OF THE PROPOSED OR EXISTING WITHDRAWAL;
(2) THE LOCATION OF ANY DISCHARGE OR RETURN FLOW;
(3) THE LOCATION AND NATURE OF THE PROPOSED OR EXISTING WATER USE;
(4) THE ACTUAL OR ESTIMATED AVERAGE ANNUAL AND MONTHLY VOLUMES AND
RATES OF WITHDRAWAL; AND
(5) THE ACTUAL OR ESTIMATED AVERAGE ANNUAL AND MONTHLY VOLUMES AND
RATES OF WATER LOSS FROM THE WITHDRAWAL.

C. IN CALCULATING THE TOTAL AMOUNT OF AN EXISTING OR PROPOSED WITH-
DRAWAL FOR THE PURPOSE OF DETERMINING THE APPLICABILITY OF THIS SUBDIVI-
SION, A PERSON SHALL COMBINE ALL SEPARATE WITHDRAWALS WHICH THE PERSON
MAKES OR PROPOSES TO MAKE, WHETHER OR NOT SUCH WITHDRAWALS ARE FOR A
SINGLE AGRICULTURAL PURPOSE OR ARE FOR RELATED BUT SEPARATE AGRICULTURAL
PURPOSES.

D. REGISTRATIONS SHALL BE VALID FOR A PERIOD OF ONE YEAR.
E. A REGISTRATION MAY BE TRANSFERRED BY SUBMITTING A NOTICE OF TRANS-
FER TO THE DEPARTMENT PRIOR TO THE DATE OF A TRANSFER OR CHANGE OF
OWNERSHIP OF A WATER WITHDRAWAL SYSTEM ASSOCIATED WITH A REGISTERED
WITHDRAWAL.

F. THE DEPARTMENT MAY COOPERATE WITH STATE SOIL AND WATER CONSERVATION
DISTRICTS FOR THE PREPARATION AND DISTRIBUTION OF INFORMATIONAL MATERI-
ALS TO PERSONS WHO WITHDRAW WATER FOR AGRICULTURAL PURPOSES, REGARDING
THE PURPOSES, BENEFITS AND REQUIREMENTS OF THIS SECTION, AND WHICH MAY
ALSO PROVIDE INFORMATION ON COMPLYING WITH THE REGISTRATION PROGRAM AND
ON ANY GENERAL OR APPLICABLE METHODS FOR CALCULATING OR ESTIMATING WATER
WITHDRAWALS OR WATER LOSS.

4. WATER WITHDRAWAL REPORTING.
A. ANY PERSON WHO WITHDRAWS WATER FOR AGRICULTURAL PURPOSES IN EXCESS
OF AN AVERAGE OF ONE HUNDRED THOUSAND GALLONS PER DAY IN ANY CONSECUTIVE
THIRTY-DAY PERIOD SHALL ANNUALLY REPORT TO THE DEPARTMENT. THE REPORT
SHALL BE MADE ON A FORM AND CONTAIN SUCH INFORMATION AS MAY BE
PRESCRIBED BY THE DEPARTMENT AND SHALL BE BASED ON THE WATER WITHDRAWALS
FOR THE PREVIOUS CALENDAR YEAR, AND SHALL INCLUDE BUT NOT BE LIMITED TO:
(1) THE WATER SOURCE, THE LOCATION OF THE WATER SOURCE AND THE SOURCE
CAPACITY IF KNOWN;
(2) THE AMOUNT OF WATER WITHDRAWN FOR THE REPORTING PERIOD, INCLUDING
THE AVERAGE OR PEAK WITHDRAWALS FOR INTERVALS SPECIFIED BY THE DEPART-
MENT;
(3) A DESCRIPTION OF THE USE OF THE WATER WITHDRAWN; AND
(4) ESTIMATED AMOUNTS OF WATER TO BE RETURNED, IF ANY, THE LOCATIONS
OF SUCH RETURNS AND THE METHOD OF SUCH RETURNS.
B. THE FOLLOWING WATER WITHDRAWALS ARE EXEMPT FROM THE REPORTING
Requirements of this Subdivision:
(1) A WITHDRAWAL REGISTERED WITH THE DEPARTMENT UNDER SUBDIVISION
THREE OF THIS SECTION;
(2) A WITHDRAWAL PERMITTED PURSUANT TO SECTION 15-1501 OF THIS TITLE;
(3) A WITHDRAWAL REPORTED TO THE DEPARTMENT UNDER ANY PROGRAM THAT
REQUIRES THE REPORTING OF SUBSTANTIALLY SIMILAR DATA, INCLUDING WITH-
DRAWALS REGULATED BY THE SUSQUEHANNA RIVER BASIN COMMISSION AND THE
DELAWARE RIVER BASIN COMMISSION;
(4) A WITHDRAWAL PERMITTED UNDER SECTION 15-1527 OF THIS TITLE;
(5) CLOSED LOOP, STANDING COLUMN, OR SIMILAR NON-EXTRACTIVE GEOTHERMAL
HEAT PUMPS; AND
(6) RECLAIMED WASTEWATER WITHDRAWN FOR REUSE.

5. WITHDRAWALS OF WATER FOR AGRICULTURAL PURPOSES REGISTERED OR
REPORTED TO THE DEPARTMENT UNDER THE REQUIREMENTS OF THIS SECTION SHALL
BE DEEMED TO BE IN COMPLIANCE WITH THE REQUIREMENTS OF TITLE SIXTEEN AND
TITLE THIRTY-THREE OF THIS ARTICLE, AS APPLICABLE.
S 5. Section 15-1505 of the environmental conservation law, as amended by chapter 233 of the laws of 1979, is amended to read as follows:


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 SHALL MAKE A NEW OR INCREASED INTERBASIN DIVERSION 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 THE DIVERSION WITH THE DEPARTMENT. NO LATER THAN FEBRUARY FIFTEENTH, TWO THOUSAND THIRTEEN, ALL EXISTING INTERBASIN DIVERSIONS IN EXCESS OF ONE MILLION GALLONS PER DAY, AS DETERMINED BY THE LIMITING MAXIMUM CAPACITY OF THE TREATMENT OR CONVEYANCE SYSTEM, SHALL BE REGISTERED WITH THE DEPARTMENT.

3. REGISTRATION IS NOT REQUIRED FOR AN INTERBASIN DIVERSION WHICH IS PART OF A WATER WITHDRAWAL SYSTEM FOR WHICH THE DEPARTMENT HAS ISSUED A PERMIT UNDER THIS TITLE, OR WHICH IS OPERATING PURSUANT TO A DULY AUTHORIZED PERMIT ISSUED BY THE DEPARTMENT OR ITS PREDECESSORS.

4. REGISTRATION SHALL BE RENEWED EVERY YEAR OR WHENEVER OWNERSHIP OF THE FACILITIES WHICH CREATE AN INTERBASIN DIVERSION IS TRANSFERRED, WHICHEVER OCCURS FIRST. REGISTRATION SHALL BE MADE ON FORMS PRESCRIBED BY THE DEPARTMENT AND SHALL CONTAIN ALL INFORMATION REQUESTED BY THE DEPARTMENT RELATIVE TO THE WATER WITHDRAWAL, USE AND DISCHARGE. EACH PERSON WHO IS REQUIRED UNDER THIS SECTION TO REGISTER SHALL ANNUALLY, ON A FORM PRESCRIBED BY THE DEPARTMENT, REPORT ALL INFORMATION REQUESTED BY THE DEPARTMENT, INCLUDING THE AMOUNT OF WATER DIVERTED. INFORMATION ON INTERBASIN DIVERSIONS SHALL BE POSTED ON THE DEPARTMENT'S WEBSITE.

5. NO PERSON SHALL MAKE A NEW OR INCREASED INTERBASIN DIVERSION WHICH RESULTS IN A SIGNIFICANT ADVERSE IMPACT ON THE WATER QUANTITY OF THE SOURCE NEW YORK MAJOR DRAINAGE BASIN.

6. DIVERSIONS FROM THE GREAT LAKES-ST. LAWRENCE RIVER BASIN ARE PROHIBITED BY THE GREAT LAKES-ST. LAWRENCE RIVER BASIN WATER RESOURCES COMPACT, AS ENACTED IN TITLE TEN OF ARTICLE TWENTY-ONE OF THIS CHAPTER. LIMITED EXCEPTIONS FOR PUBLIC WATER SUPPLY SYSTEMS WILL ONLY BE CONSIDERED WHEN IN COMPLIANCE WITH THAT COMPACT.

S 6. Section 15-1521 of the environmental conservation law, as amended by chapter 233 of the laws of 1979, is amended to read as follows:

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

On any application for a new or [additional] INCREASED WITHDRAWAL OF WATER FOR A PUBLIC water supply [or source of water supply] SYSTEM, the department may require or authorize [any] THE applicant to make provisions for the supply and to supply water to any area of the state which as determined by the department in its decision on that application properly should be supplied with water from the source or sources of water supply sought by the applicant. The owner or operator of any existing or proposed [water works] PUBLIC WATER SUPPLY system within such area may apply to the department for a permit to take water from that source of water supply or from any part of the PUBLIC water supply system of the applicant supplied in whole or in part from that source. If the department so requires, or if it grants a permit, it shall be the duty of the applicant so to supply water, subject to such requirements
as the department may impose. The PRICE TO BE PAID FOR THE amount of
water so to be taken [and the price to be paid therefor] may be agreed
upon between the applicant and the taker of the water, or if they cannot
agree, fair and reasonable amounts and rates shall be, after due hear-
ings thereon, fixed by the [department, provided however, that such
department shall have no power to fix rates in any case where the Public
Service Commission has such power, and provided further, that nothing in
this section contained shall be construed as diminishing the powers of
said Public Service Commission in respect to rates of water works compa-
nies subject to its jurisdiction] PUBLIC SERVICE COMMISSION. Any such
agreement or determination of the [department] PUBLIC SERVICE COMMISSION
may from time to time be modified by further agreement between the
parties affected thereby or by the further order of the [department]
COMMISSION.

S 7. Section 15-1529 of the environmental conservation law is amended
to read as follows:
S 15-1529. [Final approval of work] APPROVAL OF COMPLETED WATER WITH-
DRAWAL SYSTEMS.

[Before any project authorized to be developed or carried out under
this title 15 shall be operated, it must, as completed, have been
approved by the department] THE CONSTRUCTION OF ANY NEW OR MODIFIED
WATER WITHDRAWAL SYSTEM AUTHORIZED UNDER THIS TITLE SHALL BE UNDER THE
GENERAL SUPERVISION OF A PERSON OR FIRM LICENSED TO PRACTICE PROFES-
SIONAL ENGINEERING IN THE STATE. UPON COMPLETION OF CONSTRUCTION, SUCH
PERSON OR FIRM SHALL CERTIFY TO THE DEPARTMENT THAT THE WATER WITHDRAWAL
SYSTEM HAS BEEN FULLY COMPLETED IN ACCORDANCE WITH THE APPROVED ENGI-
NEERING REPORT, PLANS AND SPECIFICATIONS, AND THE PERMIT ISSUED BY THE
DEPARTMENT PURSUANT TO THIS TITLE. THE OWNER SHALL NOT COMMENCE OPERA-
TION OF THE NEW OR MODIFIED WATER WITHDRAWAL SYSTEM PRIOR TO THE DEPART-
MENT RECEIVING SUCH CERTIFICATE AND PRIOR TO APPROVAL OF THE SYSTEM BY
THE DEPARTMENT OF HEALTH OR ITS DESIGNEE AS MAY BE REQUIRED BY THE STATE
SANITARY CODE.

S 8. Title 16 of article 15 of the environmental conservation law is
REPEALED.

S 9. Title 33 of article 15 of the environmental conservation law is
REPEALED.

S 10. Subdivision 1 of section 71-1127 of the environmental conserva-
tion law, as amended by chapter 640 of the laws of 1977, is amended to
read as follows:

1. Any person who violates any of the provisions of, or who fails to
perform any duty imposed by article 15 except section 15-1713, or who
violates or who fails to comply with any rule, regulation, determination
or order of the department heretofore or hereafter promulgated pursuant
to article 15 except section 15-1713, or any condition of a permit
issued pursuant to article 15 of this chapter, or any determination or
order of the former water resources commission or the [Department of
Environmental Conservation] DEPARTMENT heretofore promulgated pursuant
to former article 5 of the Conservation Law, shall be liable for a civil
penalty of not more than TWO THOUSAND five hundred dollars for such
violation and an additional civil penalty of not more than [one] FIVE
hundred dollars for each day during which such violation continues, and,
in addition thereto, such person may be enjoined from continuing such
violation as otherwise provided in article 15 except section 15-1713.

S 11. This act shall take effect February 15, 2012; provided, however
that section four of this act shall take effect immediately; and
provided, further that sections eight and nine of this act shall take
effect December 31, 2013, and provided further that any application for an adjudication of water rates pursuant to section 15-1521 of the environmental conservation law that is filed with the department of environmental conservation and for which the department has issued a notice of hearing prior to February 15, 2012 shall remain under the jurisdiction of the department of environmental conservation.