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I N  A S S E M B L Y

March 16, 2011

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

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

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

Section 1. Legislative intent. 1. The legislature finds that the process used to stimulate natural gas extraction referred to as hydraulic fracturing utilizes components that are often toxic, that are non-biodegradable, and that are virtually impossible to remove once they enter the natural environment. Thus, they pose such a high level of environmental risk that the policy of the state must be to insure they are excluded from any area that is significant for public drinking water resources or any other area that is environmentally sensitive.

2. Natural gas drilling is potentially highly transformative of rural landscapes, offering economic benefits to many landowners, but threatening the property values of other local landowners, traditional rural economic activity, the carrying capacity of local infrastructure, the natural habitat of wildlife, and the public health and quality of life of residents in areas where there is natural gas extraction taking place. Unless these resources are protected in the permitting and regulatory processes of the state, the costs of Marcellus shale natural gas extraction will exceed the benefits and natural gas extraction will become a fundamentally unfair and divisive process in which the profits of some are subsidized by the costs to others.

3. The proposed scope of natural gas drilling across the state of New York will present unprecedented challenges of regulatory oversight.

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

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

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

5. The purpose of this legislation is to insure that the exploitation of shale natural gas resources is conducted in a manner that is consistent with and supportive of New York state's commitment to sustainability, and is consistent with other state economic development, energy and environmental policies.

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

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

TITLE 29

REGULATION OF NATURAL GAS DRILLING

SECTION 23-2901. NATURAL GAS DRILLING; PROHIBITION NEAR WATERSHED.
23-2903. DISCLOSURE OF HYDRAULIC FRACTURING MATERIALS.
23-2905. PROTECTION OF OTHER ENVIRONMENTAL RESOURCES.
23-2907. PROTECTION OF LOCAL RESOURCES.
23-2909. WATER WITHDRAWALS.
23-2911. ENFORCEMENT AND FINANCIAL SECURITY.
23-2913. OTHER PROVISIONS.

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

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

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

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

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

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

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

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

S 23-2903. DISCLOSURE OF HYDRAULIC FRACTURING MATERIALS.

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

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

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

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

3. THE DEPARTMENT SHALL ESTABLISH A STANDARD FOR THE COMPOSITION OF HYDRAULIC FRACTURING COMPOUNDS AND REQUIRE NATURAL GAS DRILLERS TO USE SUCH STANDARD. THE DEPARTMENT SHALL HAVE THE POWER TO PROHIBIT THE USE OF SPECIFIC CHEMICALS IN THE COMPOSITION OF HYDRAULIC FRACTURING MATERIALS.

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

5. NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR ADMINISTRATIVE DETERMINATION, HYDRAULIC FRACTURING MATERIAL SHALL BE REGARDED AS HAZARDOUS WASTE AND TREATED AND DISPOSED OF AS SUCH.

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

S 23-2905. PROTECTION OF OTHER ENVIRONMENTAL RESOURCES.

1. DRILLERS OF NATURAL GAS SHALL BE RESPONSIBLE FOR MITIGATING ALL DAMAGE TO ANY ENVIRONMENTAL RESOURCES, INCLUDING BUT NOT LIMITED TO AIR, WETLANDS, STREAM CORRIDORS, AND ENDANGERED AND THREATENED SPECIES HABITAT.

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

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

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

S 23-2907. PROTECTION OF LOCAL RESOURCES.

1. THE DEPARTMENT SHALL HAVE THE AUTHORITY TO IMPOSE FEES TO COMPENSATE LOCAL GOVERNMENT FOR ANY COSTS OR IMPACTS IMPOSED UPON SUCH GOVERNMENTS AS A RESULT OF DRILLING FOR NATURAL GAS.

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

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

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

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

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

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

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

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

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

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

S 23-2909. WATER WITHDRAWALS.

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

S 23-2911. ENFORCEMENT AND FINANCIAL SECURITY.

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

UNDER A PREVIOUS PERMIT OR IF SUCH APPLICANT HAS UNPAID FINANCIAL LIABILITIES TO EITHER THE STATE, A LOCAL GOVERNMENT OR A PRIVATE LANDOWNER.

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

3. A PERMIT FOR THE DRILLING OF NATURAL GAS SHALL INCLUDE APPLICABLE LEASE DOCUMENTS BETWEEN THE DRILLING COMPANY AND THE LANDOWNER OR LANDOWNERS FOR THE DRILLING SITE FOR WHICH THE APPLICATION IS MADE.

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

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

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

S 23-2913. OTHER PROVISIONS.

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

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

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

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