

STATE OF NEW YORK

5626--A

2025-2026 Regular Sessions

IN ASSEMBLY

February 18, 2025

Introduced by M. of A. KELLES, GALLAGHER, DAVILA -- 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 and the public lands law, in relation to permits and financial security for reclamation for salt mining beneath a lake; and to repeal certain provisions of the environmental conservation law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Subdivisions 1, 2, 3, 4, 8, 11 and 12 of section 23-2711 of
2 the environmental conservation law, subdivisions 1, 2, 4 and 8 as
3 amended and subdivisions 3, 11 and 12 as added by chapter 166 of the
4 laws of 1991, are amended and two new subdivisions 11-a and 14 are added
5 to read as follows:
6 1. After September first, nineteen hundred ninety-one, any person who
7 mines or proposes to mine from each mine site more than one thousand
8 tons or seven hundred fifty cubic yards, whichever is less, of minerals
9 from the earth within [~~twelve successive calendar months~~] one year or
10 who mines or proposes to mine over one hundred cubic yards of minerals
11 from or adjacent to or under any body of water not subject to the juris-
12 diction of article fifteen of this chapter or to the public lands law
13 shall not engage in such mining unless a permit for such mining opera-
14 tion has been obtained from the department. A separate permit shall be
15 obtained for each mine site.
16 2. Applications for permits and permit renewals may be submitted for
17 annual terms not to exceed five years. A complete application for a new
18 or renewal mining permit shall contain the following:
19 (a) completed application forms;
20 (b) a mined land-use plan;

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

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(c) a statement by the applicant and political subdivision in which the mine is to be located that mining is not prohibited at that location; and

(d) such additional information as the department may require, including but not limited to an environmental impact statement pursuant to subparagraph (i) of paragraph (c) of subdivision two of section 8-0113 of this chapter.

3. Upon receipt of a complete application for a mining permit, for a property not previously permitted pursuant to this title, a notice shall be sent by the department, by certified mail, to the chief administrative officer of the political subdivision in which the proposed mine is to be located [~~hereafter, "local government"~~]. Such notice will be accompanied by copies of all documents which comprise the complete application and shall state whether the application is a major project or a minor project as described in article seventy of this chapter.

(a) The chief administrative officer may make a determination, and notify the department and applicant, in regard to:

(i) appropriate setbacks from property boundaries or public thoroughfare rights-of-way,

(ii) manmade or natural barriers designed to restrict access if needed, and, if affirmative, the type, length, height and location thereof,

(iii) the control of dust,

(iv) hours of operation, and

(v) whether mining is prohibited at that location.

Any determination made by a local government hereunder shall be accompanied by supporting documentation justifying the particular determinations on an individual basis. The chief administrative officer must provide any determinations, notices and supporting documents according to the following schedule:

(i) within thirty days after receipt for a major project,

(ii) within thirty days after receipt for a minor project.

(b) If the department finds that the determinations made by the local government pursuant to paragraph (a) of this subdivision are reasonable and necessary, the department shall incorporate these into the permit, if one is issued. If the department does not agree that the determinations are justifiable, then the department shall provide a written statement to the local government and the applicant, as to the reason or reasons why the whole or a part of any of the determinations was not incorporated.

(c) A proposed mine of five acres or greater total acreage, regardless of length of the mining period, shall be a major project. The department shall, by regulation, provide a minimum thirty day public comment period, and provide notice of such comment period to the relevant local government and neighboring residents of the proposed mine, on all permit applications and permit renewals for mined land reclamation permits classified as major projects.

4. Upon approval of the application by the department and receipt of financial security as provided in section 23-2715 of this title, a permit shall be issued by the department. Upon issuance of a permit by the department, the department shall forward a copy thereof by certified mail, to the chief executive officer of the [~~county, town, village, or city~~] political subdivision in which the mining operation is located. The department may include in permits such conditions as may be required to achieve the purposes of this title.

8. Notwithstanding any other provision of law, [~~counties, cities, towns and villages~~] political subdivisions shall be exempted from the

1 fees for the permit, application, amendment and renewal required by this
2 article.

3 11. Permits issued pursuant to this title shall be renewable. A
4 complete application for renewal shall contain the following:

5 (a) completed application forms;

6 (b) an updated mining plan map consistent with paragraph (a) of subdivi-
7 sion one of section 23-2713 of this title and including an identifica-
8 tion of the area to be mined during the proposed permit term;

9 (c) a description of any changes to the mined land-use plan, which
10 shall include, with respect to a permit for salt mining beneath a lake,
11 an updated reclamation plan of surface and subsurface affected land
12 accounting for any differences in circumstances since the reclamation
13 plan was last approved by the department; [and]

14 (d) an identification of reclamation accomplished during the existing
15 permit term; and

16 (e) a thirty-year monitoring plan with respect to a permit for salt
17 mining beneath a lake of all affected lands, surface and subsurface.

18 11-a. Notwithstanding any provision of this section to the contrary,
19 with respect to salt mining beneath a lake where no environmental
20 impact statement has been prepared pursuant to the environmental quali-
21 ty review requirements of article eight of this chapter with
22 respect to such mining within the preceding twenty years, any permit
23 renewal application shall:

24 (a) not constitute a minor project within the meaning of article
25 seventy of this chapter;

26 (b) be treated as an application for a new permit;

27 (c) constitute an action requiring environmental quality review pursu-
28 ant to article eight of this chapter; and

29 (d) be deemed an action that is likely to require the preparation of
30 an environmental impact statement pursuant to subparagraph (i) of para-
31 graph (c) of subdivision two of section 8-0113 of this chapter.

32 12. The procedure for transfer of a permit issued pursuant to this
33 title is the procedure for permit modification pursuant to article
34 seventy of this chapter; provided, however, and notwithstanding subdivi-
35 sion thirteen of this section or any other provision of this section to
36 the contrary, any transfer or modification of a permit to engage in salt
37 mining activities beneath a lake shall constitute a material modifica-
38 tion of the permit and, if no environmental impact statement has been
39 prepared pursuant to the environmental quality review requirements of
40 article eight of this chapter with respect to such mining within the
41 preceding twenty years, such transfer or modification shall:

42 (a) not constitute a minor project within the meaning of article
43 seventy of this chapter;

44 (b) be treated as an application for a new permit;

45 (c) constitute an action requiring environmental quality review pursu-
46 ant to article eight of this chapter; and

47 (d) be deemed an action that is likely to require the preparation of
48 an environmental impact statement pursuant to subparagraph (i) of para-
49 graph (c) of subdivision two of section 8-0113 of this chapter.

50 14. As soon as practicable and in any event within one hundred eighty
51 days of the effective date of this subdivision, the department shall
52 prepare an environmental study with respect to any salt mining beneath a
53 lake if no environmental impact statement has been prepared within the
54 preceding twenty years with respect to such mining. Any holder of a
55 permit to mine salt beneath a lake shall comply with all reasonable
56 requests of the department in connection with preparation of such an

environmental study. The preparation of such environmental study shall include a comprehensive review of the cumulative effects of such mining, including consideration of the effects of past mining and their potential future environmental impacts, in the short-term and the long-term; any adverse environmental effects which cannot be avoided should the mining continue; alternatives to the continuation of mining; any irreversible and irretrievable commitments of resources which would be involved in the continued operation; mitigation measures proposed to minimize the environmental impact; the present and future effects of continued action on public drinking water supplies; the present and future effects of continued action on the recreational use and economic activity supported by the lake, and such other information consistent with the purpose of this subdivision as may be appropriate. In conducting such study, the department shall engage in a robust public participation process to ensure that the concerns of all stakeholders are heard and inform the final study. The initial findings of the study shall be made available to the public on the department's website no later than one hundred twenty days after the effective date of this subdivision, and shall be subject to a thirty day public comment period. The department shall conduct at least one public hearing during the thirty day comment period for review of the initial findings. The final study shall respond to and, if appropriate, incorporate comments received from the public and be made available to the public on the department's website in unredacted form.

§ 2. Subdivision 9 of section 23-2711 of the environmental conservation law is REPEALED.

§ 3. Section 23-2715 of the environmental conservation law, as amended by chapter 166 of the laws of 1991, subdivision 6 as amended by chapter 60 of the laws of 1993, is amended to read as follows:

§ 23-2715. Financial security for reclamation.

1. Before the department may issue a permit, the applicant, unless exempt, shall furnish financial security (a) to ensure the performance of reclamation as provided in the approved mined land-use plan, (b) to cover any damages directly or indirectly resulting from salt mining activities beneath a lake, including, but not limited to, those resulting from collapse or water contamination, and (c) naming the state as beneficiary. Financial security shall be in the form of a bond from a corporate surety licensed to do business as such in the state or any other form the department may deem acceptable. Any interest accruing as a result of such security shall be the exclusive property of the permittee.

2. The department shall determine the amount, condition, and terms of the financial security. The amount shall be based upon the estimated cost of reclaiming the affected land and the estimated liability from potential damages directly or indirectly resulting from salt mining activities beneath a lake, including, but not limited to, those resulting from collapse or water contamination, which shall be based on information contained in the permit application, the environmental quality review conducted pursuant to article eight of this chapter and any environmental study conducted pursuant to subdivision fourteen of section 23-2711 of this title and upon such information as an investigation by the department may disclose. At a minimum, the department shall consider the particular circumstances of the mine and mining activities in making determinations pursuant to this subdivision related to financial security amounts required to cover potential damages directly or indirectly resulting from salt mining activities beneath a lake, including, but not

1 limited to, those resulting from collapse or water contamination.
2 Consideration in such circumstances shall include, but not be limited
3 to:

4 (a) those factors considered in determining the amount of financial
5 security to ensure performance of reclamation;

6 (b) geologic, hydrologic, and other environmental conditions;

7 (c) the presence of any environmentally sensitive areas or resources;

8 (d) the presence of persons and property; and

9 (e) local economic impacts of potential damages.

10 The department shall engage an independent third party with the neces-
11 sary actuarial, conservation finance and/or other appropriate expertise
12 either to make a determination with respect to such potential damages
13 directly or indirectly resulting from salt mining activities
14 beneath a lake or to review the determination of the department with
15 respect thereto and, in the case of a review, the department shall
16 incorporate the appropriate recommendations by such independent third-
17 party reviewer into its final determination.

18 3. The financial security shall remain in full force and effect until
19 the department has approved the reclamation and determined that there is
20 no continuing risk of damages directly or indirectly from salt mining
21 activities beneath a lake, including, but not limited to, those result-
22 ing from collapse or water contamination. At the discretion of the
23 department, the permittee may secure the release of that portion of the
24 financial security for affected land on which reclamation has been
25 completed and approved by the department.

26 4. If the financial security shall for any reason be cancelled, within
27 thirty days after receiving notice thereof, the permittee shall provide
28 a valid replacement under the same conditions as described in this
29 section. Failure to provide a replacement bond within such period may,
30 at the discretion of the commissioner, result in the immediate suspen-
31 sion of the mining permit by the department.

32 5. If a permit is suspended or revoked, the department may require the
33 permittee to commence reclamation upon thirty days notice.

34 6. If the permittee fails to commence or to complete the reclamation
35 as required, the department may attach the financial security furnished
36 by the permittee. In any event, the full cost of completing reclamation
37 and any damages directly or indirectly resulting from salt mining activ-
38 ities beneath a lake, including, but not limited to, those resulting
39 from collapse or water contamination shall be the personal liability of
40 the permittee and/or the person engaged in mining and the department,
41 acting by the attorney general, may bring suit to recover all costs to
42 secure the reclamation and damages directly or indirectly resulting from
43 salt mining activities beneath a lake not covered by the financial secu-
44 rity. The materials, machinery, implements and tools of every
45 description which may be found at the mine, or other assets of the
46 permittee and/or the person engaged in mining shall be subject to a lien
47 of the department for the amount expended for reclamation of affected
48 lands, and for making whole any parties suffering any damages directly
49 or indirectly resulting from salt mining activities beneath a lake, and
50 shall not be removed without the written consent of the department. Such
51 lien may be foreclosed by the attorney general in the same manner as a
52 mechanic's lien. Any and all moneys recovered shall be deposited in the
53 environmental regulatory account pursuant to section 72-1009 of this
54 chapter.

1 7. Political subdivisions, municipalities, the United States and any
2 of its agencies and agencies of the state shall be exempt from the
3 requirements of this section.

4 8. Any permittee which has furnished a financial security with respect
5 to salt mining beneath a lake which is not in compliance with the
6 requirements of this section on the effective date of this subdivision
7 shall be in violation of this section if such financial security is not
8 brought into compliance within six months of such effective date.

9 § 4. Section 81 of the public lands law is amended by adding a new
10 subdivision 3 to read as follows:

11 3. Notwithstanding subdivisions one and two of this section, with
12 respect to a permit, consent, or lease issued with respect to salt
13 mining activities beneath a lake, the duration of such permit, consent,
14 or lease shall not be longer than the duration for which mining is
15 allowable under the permit issued by the department of environmental
16 conservation pursuant to title twenty-seven of article twenty-three of
17 the environmental conservation law in respect of such mining.

18 § 5. Severability. If any provision of this act, or any application of
19 any provision of this act, is held to be invalid, that shall not affect
20 the validity or effectiveness of any other provision of this act, or of
21 any other application of any provision of this act, which can be given
22 effect without that provision or application; and to that end, the
23 provisions and applications of this act are severable.

24 § 6. This act shall take effect on the thirtieth day after it shall
25 have become a law; provided, however, that section three of this act
26 shall take effect on the ninetieth day after it shall have become a law.
27 Effective immediately, the addition, amendment and/or repeal of any
28 rule or regulation necessary for the implementation of this act on
29 its effective date are authorized to be made and completed on or before
30 such effective date.