

# STATE OF NEW YORK

6150--A

2021-2022 Regular Sessions

## IN ASSEMBLY

March 10, 2021

Introduced by M. of A. SEPTIMO, MAMDANI, ANDERSON, FERNANDEZ, SIMON, SILLITTI, EPSTEIN, GOTTFRIED, SOLAGES, FORREST, JACKSON, GONZALEZ-ROJAS, DARLING, L. ROSENTHAL, KELLES, SEAWRIGHT -- read once and referred to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to emissions of toxic air contaminants; and to amend the state finance law, in relation to establishing the community benefit fund

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

1 Section 1. The environmental conservation law is amended by adding a  
2 new section 19-0330 to read as follows:

3 § 19-0330. Air quality standards for toxic air contaminants.

4 1. Definitions. For purposes of this section, the following terms  
5 shall have the following meanings:

6 a. "Adjacent to" shall mean within a radius of one mile.

7 b. "Disadvantaged community" shall have the same meaning as in subdi-  
8 vision five of section 75-0101 of this chapter.

9 c. "Fenceline" shall mean the property boundary of a major source.

10 d. "Major source" shall mean stationary air contamination source that  
11 emits or has the potential to emit ten tons per year or more of a toxic  
12 air contaminant or twenty-five tons per year or more of a combination of  
13 toxic contaminants.

14 e. "Toxic air contaminant" shall mean benzene, formaldehyde, vinyl  
15 chloride, polychlorinated dibenzodioxins, polychlorinated dibenzofurans,  
16 trichloroethylene and mercury.

17 2. Promulgation of standards. a. The department shall, on or before  
18 July first, two thousand twenty-two, promulgate ambient air quality  
19 standards for the following toxic air contaminants: benzene, formaldeh-

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

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1 yde, vinyl chloride, polychlorinated dibenzodioxins, polychlorinated  
2 dibenzofurans, trichloroethylene and mercury. Such standards may be  
3 hourly, rolling eight-hour or annual, or any combination thereof, as  
4 determined by the department in consultation with the department of  
5 health.

6 b. The ambient air quality standards for toxic air contaminants shall  
7 be based on the best available scientific data concerning the potential  
8 adverse human health effects of each contaminant and shall protect  
9 public health with an adequate margin of safety.

10 c. The department shall promulgate such rules and regulations as  
11 deemed necessary to implement the provisions of this section.

12 3. Monitoring and reporting. a. The owner or operator of a major  
13 source located in or adjacent to a disadvantaged community shall, no  
14 later than July first, two thousand twenty-two, submit to the department  
15 a plan to install, operate and maintain a fenceline monitoring system at  
16 such source to measure ambient air concentrations of each toxic air  
17 contaminant the source emits or has the potential to emit. The depart-  
18 ment shall review and approve such plan within sixty days of receipt.

19 b. The owner or operator of a major source subject to this subdivision  
20 shall install, operate and maintain a fenceline monitor system meeting  
21 the requirements of this subdivision no later than thirty days after  
22 approval of the fenceline monitoring system plan by the department.

23 c. The owner or operator of a major source subject to this subdivision  
24 shall submit to the department, on a quarterly basis, a report comparing  
25 the fenceline monitoring results with the ambient air quality standards  
26 for each toxic air contaminant the source emits or has the potential to  
27 emit. The comparison of the fenceline monitoring results with the ambi-  
28 ent air quality standards shall not make adjustments to account for  
29 actual or potential offsite upwind source of toxic air contaminants.

30 d. The quarterly reports required by this subdivision shall be made  
31 available to the public on the department's website.

32 e. The department may grant an extension of the deadline in paragraph  
33 a of this subdivision upon a written showing by the owner or operator of  
34 a major source that compliance with the monitoring requirements of this  
35 subdivision will cause economic hardship; provided, however, that the  
36 extension granted by the department shall not exceed eighteen months.

37 4. Prohibitions. a. No person shall emit or cause to be emitted from  
38 an air contamination source a toxic air contaminant in an amount or  
39 level that causes or contributes to a violation of an ambient air quali-  
40 ty standard for that contaminant.

41 b. The department shall not issue a permit, certificate or other  
42 approval under this article to the owner or operator of a major source  
43 that emits or has the potential to emit a toxic air contaminant unless  
44 the source owner or operator demonstrates that the source's emissions of  
45 such contaminant will not cause or contribute to a violation of any  
46 applicable ambient air quality standard for toxic air contaminants.

47 5. Violations and penalties. a. Any person who violates an ambient air  
48 quality for a toxic air contaminant or fails to perform any duty imposed  
49 by any rule or regulation promulgated pursuant to this section shall be  
50 subject to the civil and administrative sanctions set forth in section  
51 71-2113 of this chapter.

52 b. Penalties. A civil penalty for violations of this section by a  
53 major source subject to the provisions of subdivision three of this  
54 section shall be deposited into the community benefit fund established  
55 pursuant to section ninety-seven-ccc of the state finance law, provided

1 however, that deposit of the civil penalty into a community benefit fund  
2 shall not diminish the payable portion of such civil penalty.

3 § 2. The state finance law is amended by adding a new section 97-ccc  
4 to read as follows:

5 § 97-ccc. Community benefit fund. 1. There is hereby established in  
6 the joint custody of the comptroller, the commissioner of taxation and  
7 finance, and the commissioner of environmental conservation a special  
8 fund to be known as the community benefit fund.

9 2. Such fund shall consist of all moneys deposited pursuant to para-  
10 graph b of subdivision five of section 19-0330 of the environmental  
11 conservation law.

12 3. The moneys in the fund shall be expended by the department for  
13 environmental conservation for the purpose of implementing one or more  
14 environmental benefit projects that directly and verifiably benefit the  
15 adjacent disadvantaged community.

16 4. On or before the first day of February each year, the comptroller  
17 shall certify to the temporary president of the senate, and the speaker  
18 of the assembly, the amount of money deposited by source in the fund  
19 during the preceding calendar year, as well as all disbursements from  
20 the fund during the preceding calendar year.

21 5. Moneys shall be payable from the fund on the audit and warrant of  
22 the comptroller on vouchers certified and approved by the commissioner  
23 of environmental conservation.

24 § 3. This act shall take effect on the ninetieth day after it shall  
25 have become a law.