S T A T E O F N E W Y O R K

708

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. KAVANAGH, COLTON, COOK, JAFFEE -- Multi-Sponsored by -- M. of A. GOTTFRIED, JOHN, MAYERSOHN, THIELE -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to eliminating certain discharges of chlorine compounds into state waters, and for other purposes

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

Section 1. Short title. This act may be cited as the "chlorine zero discharge act".

S 2. Legislative intent. The legislature finds that:

1. toxic substances that persist or bioaccumulate in the environment, build to higher and higher concentration over time, reaching their greatest levels in the tissues of species high on the food chain, including humans;

2. toxic substances that persist or bioaccumulate in the environment are biologically active in infinitesimal quantities, causing reproductive failure, birth defects, developmental impairment, hormonal disruption, behavioral disorders, immune suppression and cancer at low doses, and mixtures of these substances may cause these effects at even lower doses;

3. regulatory approaches that permit even limited production and discharge of toxic substances that persist or bioaccumulate result in the accumulation of these substances in the environment and food chain over time and subsequent damage to the health of humans and other species;

4. the most favored method of preventing the continued contamination of the environment from persistent or bioaccumulative toxic substances is to phase out their production or use over time and replace these

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

LBD01772-01-9

substances or the processes that produce them, or both, with safer alternatives;

5. among the persistent or bioaccumulative toxic substances of greatest concern are organochlorines discharged in the production of pulp and paper as a result of the use of chlorine or any other chlorinated oxidizing agents in the pulp and paper manufacturing process;

6. the Great Lakes Water Quality Agreement between the United States and Canada concludes that the discharge of toxic substances in toxic amounts be prohibited and the discharge of any or all persistent toxic substances be virtually eliminated; and

7. in the Sixth Biennial Report on Great Lakes Water Quality, the International Joint Commission on Great Lakes Water Quality concluded that the concepts of virtual elimination and zero discharge are consistent and a clear statement or direction to take to achieve the Agreement's purpose. The overall strategy or aim regarding persistent toxic substances is virtual elimination, and the tactic or method to be used to achieve the aim is through zero input or discharge of those substances created as a result of human activity.

S 3. The environmental conservation law is amended by adding a new section 17-0830 to read as follows:

S 17-0830. DISCHARGE OF ORGANOCHLORINE COMPOUNDS, BYPRODUCTS, OR METABOLITES.

1. (A) EFFECTIVE FOUR YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION, EACH PULP AND PAPER MANUFACTURING FACILITY SHALL ACHIEVE ZERO DISCHARGE INTO WATER OF ORGANOCHLORINE COMPOUNDS, BYPRODUCTS OR METABOLITES FORMULATED AS A RESULT OF THE USE OF CHLORINE OR ANY OTHER CHLORINATED OXIDIZING AGENT IN THE PULP AND PAPER MANUFACTURING PROCESS.

(B) EFFECTIVE FOUR YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION, ALL EXISTING AND NEW PERMITS UNDER THIS CHAPTER FOR PAPER AND PULP MILLS WHICH USE CHLORINE OR ANY OTHER CHLORINATED OXIDIZING AGENT SHALL REQUIRE COMPLIANCE WITH THE ZERO DISCHARGE REQUIREMENT SET FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION.

2. WITHIN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION, THE COMMISSIONER SHALL EVALUATE ALTERNATIVES TO THE USE OF ORGANOCHLORINES IN THE MANUFACTURING OF PULP AND PAPER, AND SHALL PUBLISH A REPORT ON THE TRANSFER OF TECHNOLOGY IN THE PULP AND PAPER INDUSTRY FROM ORGANOCHLORINE TO CHLORINE-FREE TECHNOLOGY AS A MODEL FOR POLLUTION PREVENTION. WITHIN EIGHTEEN MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE DEPARTMENT SHALL BEGIN PROVIDING TECHNICAL INFORMATION AND SUPPORT TO ASSIST PERMIT APPLICANTS IN THE USE OF ALTERNATIVES TO ORGANOCHLORINE COMPOUNDS IN THE PRODUCTION OF PULP AND PAPER.

3. WITHIN EIGHTEEN MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE COMMISSIONER SHALL COMPLETE A REPORT TO THE GOVERNOR AND THE LEGISLATURE ON NOT READILY IDENTIFIED SOURCES AND INDUSTRIAL DISCHARGES OF ORGANOCHLORINE COMPOUNDS AND THEIR BYPRODUCTS AND METABOLITES INTO WATER. THE REPORT SHALL INCLUDE A LISTING OF ALL TYPES OR CATEGORIES OF NONPOINT SOURCES AND INDUSTRIAL ORGANOCHLORINE DISCHARGES INTO WATER AND THEIR BYPRODUCTS AND METABOLITES. THE REPORT SHALL ALSO INCLUDE A LISTING OF THE ANNUAL QUANTITIES OF EACH ORGANOCHLORINE COMPOUND DISCHARGED INTO WATER STATEWIDE AND BY PERMITTED FACILITY, TOGETHER WITH A LIST OF EACH PERMITTED FACILITY'S LOCATION AND QUANTITIES OF COMBINED ORGANOCHLORINE COMPOUND DISCHARGES INTO WATER. THE REPORT SHALL CONTAIN RECOMMENDATIONS FOR ACHIEVING A ZERO DISCHARGE POLICY FOR IMPORTANT CATEGORIES OF ORGANOCHLORINE POLLUTION SOURCES. IN ORDER TO DEVELOP SUCH RECOMMENDATIONS, THE COMMISSIONER SHALL CONVENE AN ADVISORY PANEL. THE ADVISORY PANEL SHALL CONDUCT PUBLIC HEARINGS AND SOLICIT PUBLIC AND

EXPERT COMMENT. THE PANEL SHALL CONSIST OF FIFTEEN MEMBERS, INCLUDING AT LEAST ONE INDEPENDENT EXPERT IN EACH OF THE FIELDS OF PUBLIC HEALTH, OCCUPATIONAL HEALTH, TECHNOLOGY CHANGE, TOXICS USE REDUCTION, AND ECOLOGY, TWO AFFECTED CITIZENS, AND TECHNICAL AND POLICY EXPERTS FROM INDUSTRY, LABOR, PUBLIC INTEREST AND ENVIRONMENTAL GROUPS. MEMBERS SHALL NOT BE EMPLOYEES OF THE DEPARTMENT. MEMBERS SHALL NOT BE ENTITLED TO ANY COMPENSATION BUT SHALL BE REIMBURSED FOR THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

4. FOR THE PURPOSES OF THIS SECTION, THE TERM "ZERO DISCHARGE" MEANS ABSOLUTELY NO OUTPUT OR RELEASE, INCLUDING NONPOINT SOURCE OUTPUT OR RELEASE, INTO WATER. THE TERM "ZERO DISCHARGE" DOES NOT MEAN A LESS THAN DETECTABLE OUTPUT OR RELEASE.

S 4. This act shall take effect immediately.