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

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2009-2010 Regular Sessions

I N A S S E M B L Y

May 4, 2009

Introduced by M. of A. GIANARIS, PERALTA, P. RIVERA, HEASTIE, BRODSKY, COLTON, FIELDS, JAFFEE, WRIGHT, PAULIN, KAVANAGH -- Multi-Sponsored by -- M. of A. ALFANO, ARROYO, BARRA, BOYLAND, CAHILL, DINOWITZ, ESPAILLAT, GLICK, GOTTFRIED, LIFTON, LUPARDO, McENENY, PEOPLES, J. RIVERA, WALKER -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to high local environmental impact communities

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

Section 1. The environmental conservation law is amended by adding a new section 3-0308 to read as follows:

S 3-0308. IDENTIFICATION OF HIGH LOCAL ENVIRONMENTAL IMPACT ZONES.

1. THE COMMISSIONER SHALL PUBLISH A BIENNIAL LIST OF "HIGH LOCAL ENVIRONMENTAL IMPACT ZONES", WHICH SHALL IDENTIFY THOSE AREAS OF THE STATE WHICH ARE MOST ADVERSELY AFFECTED BY EXISTING ENVIRONMENTAL HAZARDS. SUCH LIST SHALL IDENTIFY HIGH LOCAL ENVIRONMENTAL IMPACT ZONES IN AS SPECIFIC DETAIL AS IS PRACTICABLE, AND SHALL IDENTIFY SUCH ZONES BY CENSUS TRACT, CENSUS BLOCK GROUP OR NINE DIGIT ZIP CODE TO THE EXTENT POSSIBLE, AND SHALL AT A MINIMUM INCLUDE ZONES EXISTING IN WHOLE OR IN PART IN NO FEWER THAN FIVE PERCENT OF THE FIVE-DIGIT ZIP CODES IN THE STATE. IN COMPILING SUCH LIST, THE COMMISSIONER SHALL CONSIDER, AT A MINIMUM, EACH OF THE FOLLOWING FACTORS, AS WELL AS ANY OTHER FACTORS THAT THE COMMISSIONER DEEMS RELEVANT TO A DETERMINATION OF THE RELATIVE ADVERSE ENVIRONMENTAL IMPACT ON LOCAL COMMUNITIES:

A. THE QUANTITIES OF TOXIC CHEMICALS RELEASED WITHIN THE AREA AS REPORTED IN THE TOXICS RELEASE INVENTORY COMPILED PURSUANT TO THE FEDERAL EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (42 U.S.C. SS 11001 ET SEQ.);

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

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B. THE QUANTITIES OF EMISSIONS, DISCHARGES AND STORED WASTE AUTHORIZED AT FACILITIES LOCATED IN THE AREA BY PERMITS ISSUED PURSUANT TO ARTICLES 17, 19, 27, 29 AND 40 OF THIS CHAPTER;

C. THE QUANTITIES OF PESTICIDES SOLD AND USED IN THE AREA AS REFLECTED IN THE PESTICIDE SALES AND USE DATA BASE ESTABLISHED PURSUANT TO SECTION 33-1201 OF THIS CHAPTER;

D. THE NUMBER OF WATER BODIES IN OR ADJACENT TO THE AREA IDENTIFIED BY THE DEPARTMENT AS IMPAIRED PURSUANT TO S 303(D) OF THE FEDERAL WATER POLLUTION ACT (42 U.S.C. S 1313(D)), AND THE RELATIVE SIZE AND IMPAIRMENT OF THOSE BODIES OF WATER;

E. THE NUMBER OF INACTIVE HAZARDOUS WASTE DISPOSAL SITES, AS DEFINED IN SECTION 27-1301 OF THIS CHAPTER, IN THE AREA, AND THE RELATIVE AMOUNT OF HAZARDOUS WASTE AT THOSE SITES;

F. THE NUMBER AND QUANTITY OF DISCHARGES OF PETROLEUM AS DEFINED IN ARTICLE 12 OF THE NAVIGATION LAW;

G. WHETHER THE AREA IS ADJACENT TO ONE OR MORE OTHER AREAS WHICH ARE FOUND TO BE HIGH LOCAL ENVIRONMENTAL IMPACT ZONES, WHERE THE ADVERSE ENVIRONMENTAL IMPACTS IN SUCH DESIGNATED ZONES ALSO HAVE ADVERSE IMPACTS ON ADJACENT AREAS; AND

H. WHETHER THE AREA IS INCLUDED IN AN AREA DESIGNATED AS NONATTAINMENT FOR ONE OR MORE POLLUTANTS PURSUANT TO S 107 OF THE FEDERAL CLEAN AIR ACT (42 U.S.C. S4207).

2. THE COMMISSIONER SHALL PUBLISH THE LISTING OF HIGH LEVEL ENVIRONMENTAL IMPACT ZONES REQUIRED BY THIS SECTION IN A REPORT WHICH SHALL IDENTIFY THE FACTORS CONSIDERED BY THE COMMISSIONER AND HOW THOSE FACTORS WERE WEIGHED IN MAKING SUCH DESIGNATIONS. SUCH REPORT SHALL BE MADE AVAILABLE TO THE PUBLIC IN PRINTED FORM AND ON THE DEPARTMENT'S WEBSITE. THE FIRST SUCH REPORT SHALL BE PUBLISHED WITHIN TWO YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION.

S 2. This act shall take effect immediately.