

# STATE OF NEW YORK

9799

## IN ASSEMBLY

April 18, 2022

Introduced by M. of A. MITAYNES, SEPTIMO, KELLES, SIMON, GALLAGHER --  
read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to  
establishing an indirect source review for certain warehouse oper-  
ations

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

1 Section 1. The environmental conservation law is amended by adding a  
2 new article 74 to read as follows:

### ARTICLE 74

#### INDIRECT SOURCE REVIEW

#### Section 74-0101. Definitions.

##### 74-0103. Indirect source review.

##### 74-0105. Zero emissions zones study.

#### § 74-0101. Definitions.

9 As used in this article the following terms shall have the following  
10 meanings:

11 1. "Heavy distribution warehouse" means a facility that falls under  
12 one of the following categories:

13 (a) Fulfillment center. A facility whose primary purpose is storage  
14 and distribution of e-commerce goods to consumers or end-users, either  
15 directly or through a parcel hub.

16 (b) Parcel hub. A last mile facility or similar facility whose primary  
17 purpose is processing or redistribution of goods for delivery directly  
18 to consumers or end-users, by moving a shipment from one mode of trans-  
19 port to a vehicle with a rated capacity of less than ten thousand  
20 pounds.

21 (c) Parcel sorting facility. A facility whose primary purpose is sort-  
22 ing or redistribution of goods from a fulfillment center to a parcel  
23 hub.

24 2. "Qualifying warehouse" means any heavy distribution warehouse that  
25 is fifty thousand square feet or greater.

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

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1 3. "Warehouse operator" means any entity that conducts day-to-day  
2 operations at a heavy distribution warehouse, including operations  
3 conducted through the use of third-party contractors.  
4 § 74-0103. Indirect source review.

5 1. No later than twelve months after the effective date of this  
6 section, the department shall promulgate rules and regulations providing  
7 for the facility-by-facility review of qualifying warehouses and  
8 adoption of measures to reduce air pollution associated with emissions  
9 related to qualifying warehouse operations, including mobile source  
10 emissions.

11 2. In crafting such rules and regulations, the department shall  
12 consider measures including but not limited to requiring all warehouse  
13 operators to implement an air emissions reduction and mitigation plan  
14 developed or approved by the department; creating a points system under  
15 which warehouse operators must gain a certain number of points, based on  
16 the amount of truck traffic that results from their operations, through  
17 mitigation measures such as acquiring and using zero-emissions vehicles,  
18 installing and using on-site electric vehicle charging equipment, using  
19 alternatives to truck or van trips for incoming or outgoing trips,  
20 and/or installing solar electric power generation and battery storage  
21 systems; and requiring enhanced mitigation measures for warehouses  
22 located near sensitive receptors including but not limited to schools,  
23 daycares, playgrounds, parks, hospitals, senior centers or nursing homes  
24 and disadvantaged communities as defined by section 75-0101 of this  
25 chapter.

26 3. (a) The department shall require any proposed new development or  
27 major modification of a qualifying warehouse to first obtain a permit  
28 demonstrating that any additional traffic resulting from its  
29 construction and operation will not result in a violation of national  
30 ambient air quality standards established by the federal environmental  
31 protection agency or, if a violation already exists, will not exacerbate  
32 such violation.

33 (b) The department shall require applicants to submit information  
34 necessary to make such a determination pursuant to paragraph (a) of this  
35 subdivision, including but not limited to, projected average number of  
36 daily truck trips and primary routes to the facility, a study of poten-  
37 tial traffic and congestion impacts, identification of all sensitive  
38 receptors, including but not limited to, schools, daycares, playgrounds,  
39 parks, hospitals, senior centers or nursing homes near the proposed  
40 warehouse or near the primary truck routes, and an initial emissions  
41 reduction and mitigation plan as provided for in subdivision two of this  
42 section.

43 4. The department shall establish ongoing monitoring and reporting  
44 requirements for warehouse operators. All reports shall be made accessi-  
45 ble to the public and posted on a publicly available website. Reporting  
46 requirements shall include, but not be limited to, annual reporting of:

47 (a) The average daily number of inbound and outbound vehicle trips by  
48 vehicle weight and class, and by time of day and day of the week;

49 (b) The average daily vehicle miles traveled for all vehicles making  
50 inbound and outbound trips to and from the qualifying warehouse;

51 (c) The average daily vehicle miles traveled and number of inbound and  
52 outbound trips for alternative modes of freight such as cargo bicycles,  
53 waterborne transport and drones;

54 (d) A heat map of the frequency data for trip destinations;

55 (e) The number of jobs at the facility, including drivers and others  
56 employed by third-party contractors, with a breakdown of percentage of

1 part-time and full-time employees, independent contractors, unionized  
2 and non-union employees;

3 (f) The percentage of vehicles used, specifying on-road vehicles and  
4 off-road vehicles as well as weight and vehicle class, that are zero  
5 emissions;

6 (g) The number of electric vehicle charging stations installed and  
7 actual usage;

8 (h) The number of hydrogen fueling stations installed and actual  
9 usage;

10 (i) The number of on-site renewable energy generation systems  
11 installed; and

12 (j) Any other information necessary to effectively implement and  
13 enforce any rule or regulation promulgated pursuant to this section.

14 5. The department shall impose an annual registration fee for ware-  
15 house operators, and institute additional fees for warehouse operators  
16 that fail to submit an approved plan pursuant to subdivision two of this  
17 section or to otherwise comply with any rule or regulation promulgated  
18 pursuant to this section. Such fees shall be determined by the commis-  
19 sioner.

20 § 74-0105. Zero emissions zones study.

21 Within twelve months of the effective date of this section, the  
22 department shall complete a study on the feasibility, benefits and costs  
23 of implementing low- and zero-emissions designated zones for medium- and  
24 heavy-duty vehicles within the state that are designed to lower air  
25 pollution, congestion, greenhouse gas emissions, and noise, and to  
26 increase safety. The study shall include recommendations for implementa-  
27 tion of low- and zero-emissions zones at the state and local level and  
28 shall be made available to the public and posted on a publicly available  
29 web site. In conducting the study, the department shall consider:

30 1. Creation of zones restricting deliveries to zero-emissions delivery  
31 vehicles only;

32 2. Creation of zones requiring delivery vehicles to meet certain  
33 stringent emissions standards;

34 3. Creation of zones requiring a fee for entry for diesel-powered  
35 medium- and heavy-duty vehicles;

36 4. Prioritization of low- and zero-emissions zones within disadvan-  
37 taged communities identified under article seventy-five of this chapter;  
38 nonattainment zones under the national ambient air quality standards set  
39 by the federal environmental protection agency; and other vulnerable  
40 areas including areas proximate to schools, hospitals, and environ-  
41 mentally sensitive locations;

42 5. Incentives and enforceable measures for low- and zero-emissions  
43 zones, including fees;

44 6. Measures to ensure reinvestment of any revenues from fees in public  
45 transit and zero-emissions transportation infrastructure;

46 7. Equity considerations, including preventing unintended regressive  
47 cost impacts for low- and moderate-income New Yorkers; and

48 8. Barriers to implementing low- and zero-emissions zones in the state  
49 and recommendations for overcoming such barriers.

50 § 2. This act shall take effect immediately.