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 operations

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 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.

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

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

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

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

(c) Parcel sorting facility. A facility whose primary purpose is sorting or redistribution of goods from a fulfillment center to a parcel hub.

2. "Qualifying warehouse" means any heavy distribution warehouse that 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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3. "Warehouse operator" means any entity that conducts day-to-day operations at a heavy distribution warehouse, including operations conducted through the use of third-party contractors.

§ 74-0103. Indirect source review.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. The department shall impose an annual registration fee for warehouse operators, and institute additional fees for warehouse operators that fail to submit an approved plan pursuant to subdivision two of this section or to otherwise comply with any rule or regulation promulgated pursuant to this section. Such fees shall be determined by the commissioner.

§ 74-0105. Zero emissions zones study.

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

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

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

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

4. Prioritization of low- and zero-emissions zones within disadvantaged communities identified under article seventy-five of this chapter; nonattainment zones under the national ambient air quality standards set by the federal environmental protection agency; and other vulnerable areas including areas proximate to schools, hospitals, and environmentally sensitive locations;

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

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

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

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

§ 2. This act shall take effect immediately.