

STATE OF NEW YORK

4371--C

2021-2022 Regular Sessions

IN SENATE

February 3, 2021

Introduced by Sens. BIAGGI, HINCHEY, HOYLMAN, MAY, PARKER, SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- 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.

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

LBD08074-05-2

1 2. Promulgation of standards. a. The department shall, on or before
2 July first, two thousand twenty-two, promulgate ambient air quality
3 standards for the following toxic air contaminants: benzene, formaldeh-
4 ye, vinyl chloride, polychlorinated dibenzodioxins, polychlorinated
5 dibenzofurans, trichloroethylene and mercury. Such standards may be
6 hourly, rolling eight-hour or annual, or any combination thereof, as
7 determined by the department in consultation with the department of
8 health.

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

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

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

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

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

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

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

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

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

50 5. Violations and penalties. a. Any person who violates an ambient air
51 quality for a toxic air contaminant or fails to perform any duty imposed
52 by any rule or regulation promulgated pursuant to this section shall be
53 subject to the civil and administrative sanctions set forth in section
54 71-2113 of this chapter.

55 b. Penalties. A civil penalty for violations of this section by a
56 major source subject to the provisions of subdivision three of this

1 section shall be deposited into the community benefit fund established
2 pursuant to section ninety-seven-ccc of the state finance law, provided
3 however, that deposit of the civil penalty into a community benefit fund
4 shall not diminish the payable portion of such civil penalty.

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

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

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

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

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

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

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