STATE OF NEW YORK

9518

IN ASSEMBLY

March 20, 2024

Introduced by M. of A. FAHY -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to regulation of PFAS as a toxic air pollutant

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

Section 1. Legislative findings and intent. Per- and polyfluorinated substances (PFAS) are a class of persistent and highly toxic chemicals responsible for a pollution crisis impacting communities across the globe. Exposure to these chemicals is wide-ranging, from the water we drink to the food we eat to the clothes we wear to the products we use in the home. New York communities have been impacted through contaminated drinking water supplies, and much of the regulatory focus has been on establishing drinking water quality standards for these chemicals and prohibiting these substances in products, such as food packaging, apparel, and firefighting foam. However, our biggest polluting facilities, including incinerators, landfills, and manufacturing facilities, are not required to address PFAS entering the environment through air pathways. Communities, particularly those within the vicinity of a polluting facility, may be experiencing additional and compounded exposure to PFAS through air and soil as a result of unregulated air emissions. These air emissions are also likely playing a role in surface water contamination across the state.

§ 2. The environmental conservation law is amended by adding a new section 19-0333 to read as follows:

§ 19-0333. PFAS as a toxic air pollutant.

1. Definitions. For the purposes of this section, the following terms shall have the following meanings:

a. "Adjacent to" means within a radius of one mile.

b. "Disadvantaged community" shall have the same meaning as defined by subdivision five of section 75-0101 of this chapter.

c. "Fence line" means the property boundary of a known, major, or minor source.

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

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d. "High toxicity air contaminant" shall have the same meaning as defined by the commissioner in 6 NYCRR 212-1.2, as amended, or any successor rule or regulation.

e. "Impacted community" means a community that has been known or suspected to be impacted by PFAS contamination through water, soil, or other means.

f. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" shall mean a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

g. "Process operations" shall have the same meaning as defined by the commissioner in 6 NYCRR 212-1.2, as amended, or any successor rule or regulation.

2. Promulgation of PFAS as a high toxicity air contaminant.

a. Within ninety days of the effective date of this section, the department shall promulgate rules and/or regulations defining PFAS as a high toxicity air contaminant.

b. The department shall ensure that process operations not undergoing permit modification or renewal on the effective date of this section are assessed as to whether PFAS emissions are occurring to the outdoor atmosphere. If such PFAS emissions are found to be occurring, the department shall ensure such process operation is subject to appropriate control technology.

c. The department may adopt any rules and regulations it deems necessary to implement the provisions of this section.

3. Fence line monitoring. No later than six months after the effective date of this section, the department shall establish a PFAS air emissions fence line monitoring program. In developing such program, the department shall:

a. Prioritize monitoring facilities located in disadvantaged and/or impacted communities;

b. Consider the feasibility of monitoring for other toxic air pollutants;

c. Include a notification system for the public, and publicly provide quarterly reports summarizing the measurements;

d. Include any other measures the department deems necessary to develop such a program.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.