

ASSEMBLY, No. 4034

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED FEBRUARY 12, 2026

Sponsored by:

Assemblyman ALEX SAUICKIE

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Requires certain warehouses to obtain air pollution control permit from DEP.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning greenhouse gas emissions from certain
2 warehouses, and amending and supplementing P.L.1954, c.212.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1954, c.212 (C.26:2C-2) is amended to read
8 as follows:

9 2. As used in **[this act]** P.L.1954, c.212 (C.26:2C-1 et seq.):

10 "Air contaminant" means any substance, other than water or
11 distillates of air, present in the atmosphere as solid particles, liquid
12 particles, vapors, or gases;

13 "Air pollution" means the presence in the outdoor atmosphere of
14 one or more air contaminants in such quantities and duration as are,
15 or tend to be, injurious to human health or welfare, animal or plant
16 life, or property, or would unreasonably interfere with the
17 enjoyment of life or property throughout the State and in those
18 areas of the State as shall be affected thereby, and excludes all
19 aspects of an employer-employee relationship as to health and
20 safety hazards;

21 "Antimicrobial pesticide" means a product that destroys or
22 repels, or prevents or mitigates the growth of, any bacteria, fungus,
23 virus or other micro-organism that is defined as a pest pursuant to 7
24 U.S.C. s.136w (c)(1), and includes any product required to be
25 registered as an antimicrobial pesticide pursuant to the "Federal
26 Insecticide, Fungicide and Rodenticide Act," 7 U.S.C. s.136 et seq.;

27 "Commissioner" means the Commissioner of Environmental
28 Protection;

29 "Construct" or "construction" means to fabricate or erect
30 equipment or control apparatus at a facility where it is intended to
31 be used, but shall not include the dismantling of existing equipment
32 or control apparatus, site preparation, or the ordering, receiving,
33 temporary storage, or installation of equipment or control apparatus.
34 Unless otherwise prohibited by federal law, "construct" or
35 "construction" shall also not include the pouring of footings or
36 placement of a foundation where equipment or control apparatus is
37 intended to be used;

38 "Consumer Price Index" or "CPI" means the annual Consumer
39 Price Index for a calendar year as determined year to year using the
40 decimal increase in the September through August, 12-month
41 average for the previous year of the Consumer Price Index for All
42 Urban Consumers (CPI-U), as published by the United States
43 Department of Labor;

44 "Control apparatus" means any device that prevents or controls
45 the emission of any air contaminant;

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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1 "Council" means the Clean Air Council created pursuant to
2 section 3 of P.L.1967, c.106 (C.26:2C-3.2);

3 "Department" means the Department of Environmental
4 Protection;

5 "Emission fee" means an annual fee that is based on the emission
6 of any regulated air contaminant;

7 "Emission statement" means an annual reporting of actual
8 emissions of air contaminants as prescribed by rules and regulations
9 therefor that shall be adopted by the department pursuant to the
10 "Administrative Procedure Act, " P.L.1968, c.410 (C.52:14B-1 et
11 seq.);

12 "Emitting vehicle" means any passenger vehicle or truck that is
13 not a zero-emission vehicle;

14 "EPA" means the United States Environmental Protection
15 Agency;

16 "Equipment" means any device capable of causing the emission
17 of an air contaminant either directly or indirectly into the outdoor
18 atmosphere, and any stack, chimney, conduit, flue, duct, vent, or
19 similar device connected or attached to, or serving, the equipment,
20 and shall include, but need not be limited to, any equipment in
21 which the preponderance of the air contaminants emitted is caused
22 by a manufacturing process;

23 "Facility" means the combination of all structures, buildings,
24 equipment, control apparatus, storage tanks, source operations, and
25 other operations that are located on a single site or on contiguous or
26 adjacent sites and that are under common control of the same
27 person or persons. Research and development facilities that are
28 located with other facilities shall be considered separate and
29 independent entities for the purposes of complying with the
30 operating permit requirements of P.L.1954, c.212 (C.26:2C-1 et
31 seq.) or any codes, rules, or regulations adopted pursuant thereto;

32 "Federal Clean Air Act" means the federal "Clean Air Act" (42
33 U.S.C.s.7401 et seq.) and any subsequent amendments or
34 supplements to that act;

35 "Grandfathered" means construction, reconstruction, or
36 modification of equipment or control apparatus prior to the date of
37 enactment of section 13 of P.L.1967, c.106 (C.26:2C-9.2) on June
38 15, 1967, or prior to the subsequent applicable revisions to rules
39 and regulations codified at N.J.A.C.7:27-8.1 et seq. that occurred
40 March 5, 1973, June 1, 1976, April 5, 1985, and October 31, 1994;

41 "HAP" or hazardous air pollutant" means any air pollutant listed
42 in or pursuant to subsection (b) of section 112 of the federal Clean
43 Air Act (42 U.S.C. s.7412);

44 "Hospital or medical disinfectant" means an antimicrobial
45 product registered with the United States Environmental Protection
46 Agency that qualifies to bear the name or claim to be a "hospital or
47 medical environment disinfectant" pursuant to United States
48 Environmental Protection Agency guidelines published pursuant to

1 7 U.S.C. s.136a (c)(2)(A), and shall include, but shall not be limited
2 to, antimicrobial pesticides used in hospitals, doctor and dentist
3 offices, and other medical environments;

4 "Install" or "installation" means to carry out final setup activities
5 necessary to provide equipment or control apparatus with the
6 capacity for use or service, and shall include, but need not be
7 limited to, connection of equipment or control apparatus, associated
8 utilities, piping, duct work, or conveyor systems, but shall not
9 include construction or reconfiguration of equipment or control
10 apparatus to an alternate configuration specified in a permit
11 application and approved by the department;

12 "Major facility" means a major source, as that term is defined by
13 the EPA in rules and regulations adopted pursuant to the federal
14 Clean Air Act at 40 CFR 70.2 or any subsequent amendments
15 thereto, that has the potential to emit any of the air contaminants
16 listed below in an amount that is equal to or exceeds the applicable
17 major facility threshold levels as follows:

18 Air Contaminant	Threshold level
19 Carbon monoxide	100 tons per year
20 Particulate matter (PM-10)	100 tons per year
21 Total suspended particulates	100 tons per year
22 Sulfur dioxide	100 tons per year
23 Oxides of nitrogen	25 tons per year
24 VOC	25 tons per year
25 Lead	10 tons per year
26 Any HAP	10 tons per year
27 All HAPs collectively	25 tons per year
28 Any other air contaminant	100 tons per year;

29 "Modify" or "modification" means any physical change in, or
30 change in the method of operation of, existing equipment or control
31 apparatus that increases the amount of any air contaminant emitted
32 by that equipment or control apparatus or that results in the
33 emission of any air contaminant not previously emitted, but shall
34 not include normal repair and maintenance;

35 "Operating permit" means the permit described in Title V of the
36 federal Clean Air Act (42 U.S.C. s.7661 et seq.);

37 "Person" means an individual, public or private corporation,
38 company, partnership, firm, association, society, joint stock
39 company, international entity, institution, county, municipality,
40 state, interstate body, the United States of America, or any agency,
41 board, commission, employee, agent, officer, or political
42 subdivision of a state, an interstate body, or the United States of
43 America;

44 "Potential to emit" means the same as that term is defined by the
45 EPA in rules and regulations adopted pursuant to the federal Clean
46 Air Act at 40 CFR 70.2 or any subsequent amendments thereto;

47 "Process unit" means equipment assembled to produce
48 intermediate or final products. A process unit can operate

1 independently if supplied with sufficient feed or raw materials and
2 sufficient storage facilities for the product. The storage and transfer
3 of product or raw materials to and from the process unit shall be
4 considered separate from the process unit for the purposes of
5 making reconstruction determinations. Product recovery equipment
6 shall be considered to be part of the process unit, not part of the
7 control apparatus;

8 "Reconstruct" or "reconstruction" means the replacement of parts
9 of equipment included in a process unit, or the replacement of
10 control apparatus, if the fixed capital cost of replacing the parts
11 exceeds both of the following amounts: (1) Fifty percent of the
12 fixed capital cost that would be required to construct a comparable
13 new process unit or control apparatus; and (2) \$80,000 (in 1995
14 dollars) adjusted by the Consumer Price Index;

15 "Regulated air contaminant" means the same as the term
16 "regulated air pollutant" as defined by the EPA in rules and
17 regulations adopted pursuant to the federal Clean Air Act at 40 CFR
18 70.2 or any subsequent amendments thereto;

19 "Regulated warehouse" means a warehouse that is 100,000
20 square feet or larger, and that generates an average of 500 or more
21 vehicles trips by emitting vehicles per working day, including trips
22 caused by employees travelling to and from work, fleet vehicles
23 engaged in the operations of the warehouse, and trucks transporting
24 cargo, goods, or products to and from the warehouse;

25 "Research and development facility" means any facility the
26 primary purpose of which is to conduct research and development
27 into new processes and products, including academic and
28 technological research and development, provided that such a
29 facility is operated under the close supervision of technically
30 trained personnel and is not engaged in the manufacture of products
31 for commercial sale, except in a de minimis manner; **[and]**

32 "VOC" or "volatile organic compound" means the same as that
33 term is defined by the EPA in rules and regulations adopted
34 pursuant to the federal Clean Air Act at 40 CFR 51.100 or any
35 subsequent amendments thereto;

36 "Warehouse" means a building that stores cargo, goods, or
37 products of any type on a short-term or long-term basis for later
38 distribution to wholesale or retail customers, and includes, but is
39 not limited to, a distribution center, flex-warehouse, or any other
40 type of warehouse; and

41 "Zero-emission vehicle" means the same as the term is defined in
42 section 2 of P.L.2003, c.266 (26:2C-8.16).

43 (cf: P.L.1999, c.100, s.1)

44

45 2. Section 8 of P.L.1954, c.212 (C.26:2C-8) is amended to read
46 as follows:

47 8. a. The department shall have power to formulate and
48 promulgate, amend and repeal codes and rules and regulations

1 preventing, controlling and prohibiting air pollution throughout the
2 State or in such territories of the State as shall be affected thereby,
3 except as provided in subsection b. of this section; provided,
4 however, that no such code, rule or regulation and no such
5 amendment or repeal shall be adopted except after public hearing to
6 be held after 30 days' prior notice thereof by public advertisement
7 of the date, time and place of such hearing, at which opportunity to
8 be heard by the department with respect thereto shall be given to the
9 public; and provided, further, that no such code, rule or regulation
10 and no such amendment or repeal shall be or become effective until
11 60 days after the adoption thereof as aforesaid. Any person heard
12 at such public hearing shall be given written notice of the
13 determination of the department.

14 All codes, rules and regulations heretofore adopted by the Air
15 Pollution Control Commission shall continue in full force and effect
16 subject to the power of the department to amend and repeal such
17 codes, rules and regulations as provided by **[this act]** P.L.1954,
18 c.212 (C.26:2C-1 et seq.).

19 b. Unless otherwise required by federal law, rule or regulation,
20 no code, regulation, rule or standard may be adopted by the
21 department that diminishes the efficacy of a hospital or medical
22 disinfectant in killing or inactivating agents of infectious diseases,
23 including, but not limited to, restrictions on the volatile organic
24 compound content or emissions caused by the use of such products.
25 No federal requirement to reduce volatile organic compound
26 content or emissions in general may be construed to permit the
27 department to regulate the volatile organic compounds found in, or
28 released in the use of, a hospital or medical disinfectant, unless the
29 federal law, rule or regulation establishing the federal requirement
30 specifically requires the reduction of volatile organic compounds
31 found in, or released in the use of, hospital or medical
32 disinfectants.

33 c. The department shall have the power to regulate air pollution
34 and greenhouse gas emissions resulting from activities at regulated
35 warehouses, in accordance with the provisions of section 3 of
36 P.L. , c. (C.) (pending before the Legislature as this bill).
37 (cf: P.L.1999, c.100, s.2)

38

39 3. (New section) a. No regulated warehouse in the State shall
40 operate unless the owner or operator of the warehouse possesses a
41 valid permit issued by the department pursuant to the "Air Pollution
42 Control Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.).

43 b. The department shall develop and implement a permit
44 program to effectuate the provisions of this section. A permit
45 issued to a regulated warehouse pursuant to this section shall
46 require the owner or operator of a regulated warehouse to
47 demonstrate to the department's satisfaction that the activities at the
48 regulated warehouse result in emissions of no more than 100 tons of

1 greenhouse gases annually, measured as carbon dioxide equivalent.

2 The measurement shall:

3 (1) include emissions from emitting vehicle traffic generated by
4 the warehouse; and

5 (2) factor in, as an offset, any carbon credits purchased by the
6 owner or operator of the warehouse during the measurement year,
7 provided that the department determines that the carbon credits
8 represent genuine carbon sequestration.

9 c. The department shall possess the same powers to administer
10 and enforce the provisions of this section as it possesses with
11 respect to the other provisions of the "Air Pollution Control Act
12 (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.), including, but not
13 limited to, the power to collect administrative fees pursuant to
14 section 9 of P.L.1954, c.212 (C.26:2C-9) and the power to enter
15 premises pursuant to section 5 of P.L.1962, c.212 (C.26:2C-9.1).

16 d. An owner or operator of a regulated warehouse that violates
17 the provisions of this section shall be deemed to have violated the
18 provisions of the "Air Pollution Control Act (1954)," P.L.1954,
19 c.212 (C.26:2C-1 et seq.), and shall be subject to the same penalties
20 as provided in section 19 of P.L.1954, c.212 (C.26:2C-19).

21 e. The Department of Environmental Protection shall adopt,
22 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
23 (C.52:14B-1 et seq.), rules and regulations as necessary to
24 implement the provisions of this section.

25

26 4. This act shall take effect 18 months after the date of
27 enactment, except that the Department of Environmental Protection
28 may take any anticipatory administrative action, in advance of the
29 effective date, as may be necessary for the implementation of this
30 act.

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STATEMENT

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35 This bill would require certain warehouses to obtain a permit
36 under the "Air Pollution Control Act (1954)," P.L.1954, c.212
37 (C.26:2C-1 et seq.) before being allowed to operate in the State.

38 Specifically, the bill would apply to warehouses that are 100,000
39 square feet or larger and generate 500 or more vehicle trips per
40 working day. The vehicle trips would include employees
41 commuting to and from work, in addition to truck traffic. However,
42 the vehicle trips would exclude trips made by zero-emission
43 vehicles.

44 Under the permit program, the owner or operator of a regulated
45 warehouse would be required to demonstrate to the Department of
46 Environmental Protection (DEP) that the warehouse generates no
47 more than 100 tons of greenhouse gases per year. The owner or
48 operator could purchase carbon credits to offset the warehouse's

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1 emissions, provided that DEP deems the credits to be legitimate.
2 The requirement to obtain a permit would begin 18 months after the
3 date the bill is enacted into law. The permit requirement would
4 apply to any existing or newly constructed warehouse that is
5 covered under the bill.

6 The bill would provide that the DEP has the same powers to
7 administer and enforce the permit program as it has under the "Air
8 Pollution Control Act (1954)," and a violation of the bill's
9 provisions would constitute a violation of the "Air Pollution Control
10 Act (1954)." Persons who violate the "Air Pollution Control Act
11 (1954)" may be liable to a civil administrative penalty of not more
12 than \$10,000 for the first offense, not more than \$25,000 for the
13 second offense, and not more than \$50,000 for the third and each
14 subsequent offense.