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States' Environmental Justice Statutes: New York



This material is based upon work supported by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture

A National Agricultural Law Center Research Publication

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[NY Env Conserv L §§ 48-0101 – 48-0113; 75-0101 – 75-0119](#)

Current through L.2022, chapters 1 to 55, 57, 59 to 179.

§ 48-0101. Declaration of policy.

1. It is hereby declared to be the policy of this state that all people, regardless of race, color, religion, national origin or income, have a right to fair treatment and meaningful involvement in the development, implementation and enforcement of laws, regulations and policies that affect the quality of the environment.

2. It shall further be the policy of the state that no group of people, including a racial, ethnic or socioeconomic group, should be disproportionately exposed to pollution or bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal or commercial operations, or the execution of federal, state or local programs and policies.

3. It shall further be the policy of the state that no group of people, including a racial, ethnic or socioeconomic group, should suffer from inequitable allocation of public resources or financial assistance for environmental protection and stewardship, including environmental remediation, pollution prevention, open space acquisition and/or other protection and stewardship activities.

4. It shall further be the policy of the state that opportunities for citizen involvement in the development of laws, regulations and policies that affect the quality of the environment be as reflective of the diversity of interests and perspective found within the affected community as possible, including those of racial, ethnic and socioeconomic groups; that such opportunities be provided as early as possible in the decision making process; that such opportunities provide full, timely and accessible disclosure of public records and sharing of information by the government agency or agencies involved, including the provision of technical data and the assumptions upon which any analyses are based; and that such opportunities allow all people, regardless of race, color, religion, national origin or income, the opportunity to have their views heard and considered, including opportunities for two-way dialogue.

§ 48-0103. Definitions

As used in this article:

1. "Advisory group" means the permanent environmental justice advisory group established by section 48-0105 of this article.

2. "Agency" means any state department, agency, board, bureau, commission, division, office, council, or any public authority or public benefit corporation.



3. “Environmental justice” means the fair treatment and meaningful involvement of all people regardless of race, color, religion, national origin or income with respect to the development, implementation and enforcement of laws, regulations and policies affecting the quality of the environment.

4. “Fair treatment” means that no group of people, including a racial, ethnic or socioeconomic group, should be disproportionately exposed to pollution or bear a disproportionate share of the negative environmental consequences resulting from execution of federal, state and local programs and policies, and further means that no such group of people should suffer from inequitable allocation of public resources or financial assistance for environmental protection and stewardship, including environmental remediation, pollution prevention, open space acquisition and other protection and stewardship activities.

5. “Meaningful involvement” means the provision of opportunities for citizen participation in decision making that are as reflective of the diversity of interests and perspective found within the affected community as possible, including those of racial, ethnic and socioeconomic groups; that are provided as early as possible in the decision making process; that provide full, timely and accessible disclosure of public records and sharing of information by the government agency or agencies involved, including the provision of technical data and the assumptions upon which any analyses are based; and that allow all people, regardless of race, color, religion, national origin or income, the opportunity to have their views heard and considered, including opportunities for two-way dialogue.

§ 48-0105. Permanent environmental justice advisory group

1. The permanent environmental justice advisory group is hereby established in the department to consist of sixteen members, as follows:

(a) Five members shall be representatives of community-based organizations that advise or assist minority and low-income communities on environmental matters; and

(b) Four members shall be representatives of businesses that hold state-issued permits or otherwise operate subject to this chapter.

(c) One of the members appointed pursuant to each of paragraphs (a) and (b) of this subdivision shall be appointed by the temporary president of the senate, and one of the members appointed pursuant to each of paragraphs (a) and (b) of this subdivision shall be appointed by the speaker of the assembly. One member shall be appointed by the minority leader of the senate and one member shall be appointed by the minority leader of the assembly. The remaining members shall be representatives of state or national organizations promoting environmental conservation, researchers, educators and members of the general public. The other members appointed pursuant to this subdivision shall be appointed by the governor. The replacement of any member shall be in accordance with the provisions contained in this section for appointment of members.

2.



(a) Each member of the advisory group shall serve for a term of four years or until his or her successor is appointed. A member appointed to fill a vacancy shall serve the remainder of the term of the member he or she is appointed to succeed. The members of the advisory group shall receive no compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties hereunder.

(b) The advisory group shall select a chair from among the members. The advisory group shall meet as frequently as necessary, but not less than three times per year. Such meetings shall be held at such locations as the advisory group may determine. All such meetings shall be subject to the open meetings law. At least one meeting annually shall be held jointly with the environmental justice interagency coordinating council established pursuant to section 48-0111 of this article.

§ 48-0107. Powers and duties

The advisory group shall have the power and duty to:

1. adopt a model environmental justice policy applicable generally to state agencies that engage in activities or operations that may have a significant effect on the environment, including but not limited to through the adoption of rules and regulations, issuance of permits, acquisition or maintenance of property, or approval, funding or undertaking of projects. Such policy shall be adopted not later than one year after the effective date of this article. The advisory group shall develop the model policy in consultation with representatives of minority and low-income communities, regulated parties, the environmental justice interagency coordinating council and other state agencies and the public and shall hold a public hearing thereon in each judicial department. Notice of such hearings and notice of the adoption of the model policy shall be published in the state register;
2. make recommendations to the governor, legislature and state agencies on measures to improve such policies;
3. provide comments on any proposed rule, regulation or policy of a state or federal agency related to environmental justice;
4. conduct public hearings with respect to any matter within the scope of its functions, powers and duties; and
5. adopt, amend and repeal by-laws governing its organization and operation.

§ 48-0109. Agency responsibilities.

1. Each state agency that engages in activities or operations that have a significant effect on the environment, including but not limited to through the adoption of rules and regulations, issuance of permits, acquisition or maintenance of property, or approval, funding or undertaking of projects, shall be guided in its decision making on such activities or operations by an environmental justice policy. Each such agency shall adopt rules and regulations setting forth its environmental justice policy not later than two years after the adoption of a model environmental justice policy pursuant to section 48-0107 of this article.



2. Each state agency subject to the requirements of subdivision one of this section shall:

(a) appoint a staff member of the agency to serve as environmental justice coordinator, to provide information to the public on the policies, activities and operations of the agency related to environmental justice and to act as liaison to the environmental justice advisory group;

(b) notify the advisory group of the appointment of an environmental justice coordinator; and

(c) develop an environmental justice training plan which includes the provision of workshops and written materials to appropriate staff regarding environmental justice and implementation of the agency's environmental justice policy.

§ 48-0111. Environmental justice interagency coordinating council.

1. There is hereby established an environmental justice interagency coordinating council which shall have the power and duty to:

(a) coordinate the activities of agencies required to adopt an environmental justice policy pursuant to section 48-0109 of this article in development and implementation of such policies; and

(b) serve as a clearinghouse for state agencies and the public for information on environmental justice policies, environmental justice coordinators in state agencies and related activities of state agencies, and maintain information services, including but not limited to an Internet site and a toll-free telephone number, to inform the public on environmental justice.

2. The environmental justice coordinating council shall include the commissioner; the commissioner of the department of economic development; the commissioner of the department of transportation; the president of the environmental facilities corporation; the president of the New York State energy research and development authority; the chairman of the public service commission; the chairman of the power authority of the State of New York; or their designees; and every staff member chosen by an agency to serve as environmental justice coordinator pursuant to section 48-0109 of this article. The council shall consult with the permanent environmental justice advisory group; representatives of minority and low-income communities, including community-based organizations that advise or assist minority and low-income communities on environmental matters; representatives of businesses that hold state-issued permits or otherwise operate subject to this chapter; representatives of local governments; representatives of local, state, or national organizations promoting environmental conservation; researchers and educators; and any other parties the council deems appropriate.

3. The coordinating council shall meet at least bi-annually and shall designate one of its members to serve as chairperson and one of its members to serve as secretary for the development and dissemination of minutes and reports. All such meetings shall be subject to the open meetings law. At least one meeting annually shall be held jointly with the permanent environmental justice advisory group established pursuant to section 48-0105 of this article. Each member shall be entitled to designate in writing a representative to attend



meetings in his or her place and to vote or otherwise act on his or her behalf in his or her absence.

§ 48-0113. Separability.

If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

§ 75-0101. Definitions

For the purposes of this article the following terms shall have the following meanings:

1. "Allowance" means an authorization to emit, during a specified year, up to one ton of carbon dioxide equivalent.
2. "Carbon dioxide equivalent" means the amount of carbon dioxide by mass that would produce the same global warming impact as a given mass of another greenhouse gas over an integrated twenty-year time frame after emission.
3. "Co-pollutants" means hazardous air pollutants produced by greenhouse gas emissions sources.
4. "Council" means the New York state climate action council established pursuant to section 75-0103 of this article.
5. "Disadvantaged communities" means communities that bear burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socioeconomic criteria, or comprise high-concentrations of low- and moderate-income households, as identified pursuant to section 75-0111 of this article.
6. "Emissions reduction measures" means programs, measures and standards, authorized pursuant to this chapter, applicable to sources or categories of sources, that are designed to reduce emissions of greenhouse gases.
7. "Greenhouse gas" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other substance emitted into the air that may be reasonably anticipated to cause or contribute to anthropogenic climate change.
8. "Greenhouse gas emission limit" means the maximum allowable level of statewide greenhouse gas emissions, in a specified year, expressed in tons of carbon dioxide equivalent, as determined by the department pursuant to this article.
9. "Greenhouse gas emission offset" means a deduction representing one metric ton of carbon dioxide equivalent emissions, reduced, avoided, or sequestered by a greenhouse gas emission offset project from a measured baseline of emissions pursuant to the statewide greenhouse gas emissions report.



10. “Greenhouse gas emission offset projects” means one or more projects, including:
- a. Natural carbon sinks including but not limited to afforestation, reforestation, or wetlands restoration;
 - b. Greening infrastructure;
 - c. Restoration and sustainable management of natural and urban forests or working lands, grasslands, coastal wetlands and sub-tidal habitats;
 - d. Efforts to reduce hydrofluorocarbon refrigerant, sulfur hexafluoride, and other ozone depleting substance releases;
 - e. Anaerobic digesters, where energy produced is directed toward localized use;
 - f. Carbon capture and sequestration;
 - g. Ecosystem restoration; and
 - h. Other types of projects recommended by the council in consultation with the climate justice working group that provide public health and environmental benefits, and do not create burdens in disadvantaged communities.
11. “Greenhouse gas emission source” or “source” means any anthropogenic source or category of anthropogenic sources of greenhouse gas emissions, determined by the department:
- a. whose participation in the program will enable the department to effectively reduce greenhouse gas emissions; and,
 - b. that are capable of being monitored for compliance.
12. “Leakage” means a reduction in emissions of greenhouse gases within the state that is offset by an increase in emissions of greenhouse gases outside of the state.
13. “Statewide greenhouse gas emissions” means the total annual emissions of greenhouse gases produced within the state from anthropogenic sources and greenhouse gases produced outside of the state that are associated with the generation of electricity imported into the state and the extraction and transmission of fossil fuels imported into the state. Statewide emissions shall be expressed in tons of carbon dioxide equivalents.
14. “Statewide greenhouse gas emissions limit” or “statewide emissions limit” means the maximum allowable level of statewide greenhouse gas emissions in a specified year, as determined by the department pursuant to this article.
15. “Environmental justice advisory group” shall mean the permanent environmental justice advisory group established by a chapter of the laws of two thousand nineteen amending the environmental conservation law relating to establishing a permanent environmental justice advisory group and an environmental justice



interagency coordinating council, as proposed in legislative bills numbers S. 2385 and A. 1564.

§ 75-0103. New York state climate action council.

1. There is hereby established the New York state climate action council (“council”) which shall consist of the following twenty-two members:

a. the commissioners of transportation, health, economic development, agriculture and markets, housing and community renewal, environmental conservation, labor, the chairperson of the public service commission, the presidents of the New York state energy research and development authority; New York power authority; Long Island power authority; the secretary of state, or their designees.

b. two non-agency expert members appointed by the governor;

c. three members to be appointed by the temporary president of the senate;

d. three members to be appointed by the speaker of the assembly;

e. one member to be appointed by the minority leader of the senate; and

f. one member to be appointed by the minority leader of the assembly.

2. The at large members shall include at all times individuals with expertise in issues relating to climate change mitigation and/or adaptation, such as environmental justice, labor, public health and regulated industries.

3. Council members shall receive no compensation for their services but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

4. The co-chairpersons of the council shall be the commissioner of environmental conservation and the president of the New York state energy research and development authority or their designee.

5. Each member of the council shall be entitled to one vote. The council's approval and adoption of the final scoping plan pursuant to this section, and any subsequent interim updates thereto, shall require a supermajority of the council. No action may be taken by the council unless there is a quorum, which shall at all times be a majority of the members of the council.

6. Any vacancies on the council shall be filled in the manner provided for the initial appointment.

7. The council shall convene advisory panels requiring special expertise and, at a minimum, shall establish advisory panels on transportation, energy intensive and trade-exposed industries, land-use and local government, energy efficiency and housing, power generation, and agriculture and forestry. The purpose of the advisory panels shall be to provide recommendations to the council on specific topics, in its preparation of the scoping plan, and interim updates to the scoping plan, and in fulfilling the council's ongoing duties.



a. Each advisory panel shall be chaired by the relevant agency head or his or her designee. The council may convene and dissolve additional advisory panels, in its sole discretion, and pursuant to the requirements herein.

b. Advisory panels shall be comprised of no more than five voting members. The council shall elect advisory panel members, and such membership shall at all times represent individuals with direct involvement or expertise in matters to be addressed by the advisory panels pursuant to this section.

c. Advisory panels shall work directly with the council on the preparation of the scoping plan pursuant to this section. Each advisory panel shall coordinate with the environmental justice advisory group and climate justice working group.

d. All agencies of the state or subdivisions thereof may, at the request of any such advisory panel or the council, provide the advisory panel with such facilities, assistance, and data as will enable advisory panels to carry out their powers and duties.

8. The council shall convene a just transition working group. The working group shall be chaired by the commissioner of labor and the president of the New York state energy research and development authority and shall consist of no less than thirteen, but no more than seventeen members and shall include the commissioners of housing and community renewal, the chair of the department of public service, representatives of environmental justice communities and representatives of labor organizations, clean energy developers and at least five representatives of distinct energy-intensive industries. The just transition working group shall:

a. advise the council on issues and opportunities for workforce development and training related to energy efficiency measures, renewable energy and other clean energy technologies, with specific focus on training and workforce opportunities for disadvantaged communities, and segments of the population that may be underrepresented in the clean energy workforce such as veterans, women and formerly incarcerated persons;

b. identify energy-intensive industries and related trades and identify sector specific impacts of the state's current workforce and avenues to maximize the skills and expertise of New York state workers in the new energy economy;

c. identify sites of electric generating facilities that may be closed as a result of a transition to a clean energy sector and the issues and opportunities presented by reuse of those sites;

d. with respect to potential for greenhouse gas emission limits developed by the department of environmental conservation pursuant to this article, advise the council on the potential impacts of carbon leakage risk on New York state industries and local host communities, including the impact of any potential carbon reduction measures on the competitiveness of New York state business and industry;

e. advise the council and conduct stakeholder outreach on any other workforce matters directed by the council; and



f. at a time frame determined by the council, prepare and publish recommendations to the council on how to address: issues and opportunities related to the energy-intensive and trade-exposed entities; workforce development for trade-exposed entities, disadvantaged communities and underrepresented segments of the population; measures to minimize the carbon leakage risk and minimize anti-competitiveness impacts of any potential carbon policies and energy sector mandates.

g. The just transition working group is hereby authorized and directed to conduct a study of and report on:

i. The number of jobs created to counter climate change, which shall include but not be limited to the energy sector, building sector, transportation sector, and working lands sector;

ii. The projection of the inventory of jobs needed and the skills and training required to meet the demand of jobs to counter climate change; and

iii. Workforce disruption due to community transitions from a low carbon economy.

9. The department and the New York state energy research and development authority shall provide the council with such facilities, assistance and data as will enable the council to carry out its powers and duties. Additionally, all other agencies of the state or subdivisions thereof may, at the request of the co-chairpersons, provide the council with such facilities, assistance, and data as will enable the council to carry out its powers and duties.

10. The council shall consult with the climate justice working group established in section 75-0111 of this article, the department of state utility intervention unit, and the federally designated electric bulk system operator.

11. The council shall on or before two years of the effective date of this article, prepare and approve a scoping plan outlining the recommendations for attaining the statewide greenhouse gas emissions limits in accordance with the schedule established in section 75-0107 of this article, and for the reduction of emissions beyond eighty-five percent, net zero emissions in all sectors of the economy, which shall inform the state energy planning board's adoption of a state energy plan in accordance with section 6-104 of the energy law. The first state energy plan issued subsequent to completion of the scoping plan required by this section shall incorporate the recommendations of the council.

12. The draft scoping plan shall be developed in consultation with the environmental justice advisory group, and the climate justice working group established pursuant to section 75-0111 of this article and other stakeholders.

a. The council shall hold at least six regional public comment hearings on the draft scoping plan, including three meetings in the upstate region and three meetings in the downstate region, and shall allow at least one hundred twenty days for the submission of public comment.

b. The council shall provide meaningful opportunities for public comment from all segments of the population that will be impacted by the plan, including persons



living in disadvantaged communities as identified pursuant to section 75-0111 of this article.

c. On or before three years of the effective date of this article, the council shall submit the final scoping plan to the governor, the speaker of the assembly and the temporary president of the senate and post such plan on its website.

13. The scoping plan shall identify and make recommendations on regulatory measures and other state actions that will ensure the attainment of the statewide greenhouse gas emissions limits established pursuant to section 75-0107 of this article. The measures and actions considered in such scoping plan shall at a minimum include:

a. Performance-based standards for sources of greenhouse gas emissions, including but not limited to sources in the transportation, building, industrial, commercial, and agricultural sectors.

b. Measures to reduce emissions from the electricity sector by displacing fossil-fuel fired electricity with renewable electricity or energy efficiency.

c. Land-use and transportation planning measures aimed at reducing greenhouse gas emissions from motor vehicles.

d. Measures to achieve long-term carbon sequestration and/or promote best management practices in land use, agriculture and forestry.

e. Measures to achieve six gigawatts of distributed solar energy capacity installed in the state by two thousand twenty-five, nine gigawatts of offshore wind capacity installed by two thousand thirty-five, a statewide energy efficiency goal of one hundred eighty-five trillion British thermal units energy reduction from the two thousand twenty-five forecast; and three gigawatts of statewide energy storage capacity by two thousand thirty.

f. Measures to promote the beneficial electrification of personal and freight transport and other strategies to reduce greenhouse gas emissions from the transportation sector.

g. Measures to achieve reductions in energy use in existing residential or commercial buildings, including the beneficial electrification of water and space heating in buildings, establishing appliance efficiency standards, strengthening building energy codes, requiring annual building energy benchmarking, disclosing energy efficiency in home sales, and expanding the ability of state facilities to utilize performance contracting.

h. Recommendations to aid in the transition of the state workforce and the rapidly emerging clean energy industry.

i. Measures to achieve healthy forests that support clean air and water, biodiversity, and sequester carbon.

j. Measures to limit the use of chemicals, substances or products that contribute to global climate change when released to the atmosphere, but are not intended for end-use combustion.



k. Mechanisms to limit emission leakage as defined in subdivision eleven of section 75-0101 of this article.

l. Verifiable, enforceable and voluntary emissions reduction measures.

14. In developing such plan the council shall:

a. Consider all relevant information pertaining to greenhouse gas emissions reduction programs in states in the United States Climate Alliance, as well as other states, regions, localities, and nations.

b. Evaluate, using the best available economic models, emission estimation techniques and other scientific methods, the total potential costs and potential economic and non-economic benefits of the plan for reducing greenhouse gases, and make such evaluation publicly available. In conducting this evaluation, the council shall quantify:

i. The economic and social benefits of greenhouse gas emissions reductions, taking into account the value of carbon, established by the department pursuant to section 75-0113 of this article, any other tools that the council deems useful and pertinent for this analysis, and any environmental, economic and public health co-benefits (such as the reduction of co-pollutants and the diversification of energy sources); and

ii. The costs of implementing proposed emissions reduction measures, and the emissions reductions that the council anticipates achieving through these measures.

c. Take into account the relative contribution of each source or source category to statewide greenhouse gas emissions, and the potential for adverse effects on small businesses, and recommend a de minimis threshold of greenhouse gas emissions below which emission reduction requirements will not apply.

d. Identify measures to maximize reductions of both greenhouse gas emissions and co-pollutants in disadvantaged communities as identified pursuant to section 75-0111 of this article.

15. The council shall update its plan for achieving the statewide greenhouse gas emissions limits at least once every five years and shall make such updates available to the governor, the speaker of the assembly and the temporary president of the senate and post such updates on its website.

16. The council shall identify existing climate change mitigation and adaptation efforts at the federal, state, and local levels and may make recommendations regarding how such policies may improve the state's efforts.

17. The council shall maintain a website that includes public access to the scoping plan and greenhouse gas limit information.

§ 75-0105. Statewide greenhouse gas emissions report.



1. No later than two years after the effective date of this article, and each year thereafter, the department shall issue a report on statewide greenhouse gas emissions, expressed in tons of carbon dioxide equivalents, from all greenhouse gas emission sources in the state, including the relative contribution of each type of greenhouse gas and each type of source to the statewide total.

2. The statewide greenhouse gas emissions report shall be a comprehensive evaluation, informed by a variety of data, including but not limited to:

a. information relating to the use of fossil fuels by sector, including for electricity generation, transportation, heating, and other combustion purposes;

b. information relating to fugitive and vented emissions from systems associated with the production, processing, transport, distribution, storage, and consumption of fossil fuels, including natural gas;

c. information relating to emissions from non-fossil fuel sources, including, but not limited to, garbage incinerators, biomass combustion, landfills and landfill gas generators, and anaerobic digesters;

d. information relating to emissions associated with manufacturing, chemical production, cement plants, and other processes that produce non-combustion emissions; and

e. information from sources that may be required to participate in the registration and reporting system pursuant to subdivision four of this section.

3. The statewide greenhouse gas emissions report shall also include an estimate of greenhouse gas emissions associated with the generation of imported electricity and with the extraction and transmission of fossil fuels imported into the state which shall be counted as part of the statewide total.

4. Within one year after the effective date of this article, the department shall consider establishing a mandatory registry and reporting system from individual sources to obtain data on greenhouse gas emissions exceeding a particular threshold. If established, such registry and reporting system shall apply a consistent reporting threshold to ensure the unbiased collection of data.

5. The statewide greenhouse gas emissions report shall also include an estimate of what the statewide greenhouse gas emissions level was in 1990.

6. The statewide greenhouse gas emissions report shall utilize best available science and methods of analysis, including the comparison and reconciliation of emission estimates from all sources, fuel consumption, field data, and peer-reviewed research.

7. The statewide greenhouse gas emissions report shall clearly explain the methodology and analysis used in the department's determination of greenhouse gas emissions and shall include a detailed explanation of any changes in methodology or analysis, adjustments made to prior estimates, as needed, and any other information necessary to establish a scientifically credible account of change.



8. The department shall hold at least two public hearings to seek public input regarding the methodology and analysis used in the determination of statewide greenhouse gas emissions, and periodically thereafter.

§ 75-0107. Statewide greenhouse gas emissions limits.

1. No later than one year after the effective date of this article, the department shall, pursuant to rules and regulations promulgated after at least one public hearing, establish a statewide greenhouse gas emissions limit as a percentage of 1990 emissions, as estimated pursuant to section 75-0105 of this article, as follows:

(a) 2030: 60% of 1990 emissions.

(b) 2050: 15% of 1990 emissions.

2. Greenhouse gas emission limits shall be measured in units of carbon dioxide equivalents and identified for each individual type of greenhouse gas.

3. In order to ensure the most accurate determination feasible, the department shall utilize the best available scientific, technological, and economic information on greenhouse gas emissions and consult with the council, stakeholders, and the public in order to ensure that all emissions are accurately reflected in its determination of 1990 emissions levels.

4. In order to comply with the statewide greenhouse gas emissions limits promulgated pursuant to this section, a source may utilize the alternative compliance mechanism established pursuant to subdivision four of section 75-0109 of this article. The use of such mechanism shall be in accordance with the provisions of that subdivision.

§ 75-0109. Promulgation of regulations to achieve statewide greenhouse gas emissions reductions.

1. No later than four years after the effective date of this article, the department, after public workshops and consultation with the council, the environmental justice advisory group, and the climate justice working group established pursuant to section 75-0111 of this article, representatives of regulated entities, community organizations, environmental groups, health professionals, labor unions, municipal corporations, trade associations and other stakeholders, shall, after no less than two public hearings, promulgate rules and regulations to ensure compliance with the statewide emissions reduction limits and work with other state agencies and authorities to promulgate regulations required by section eight of the chapter of the laws of two thousand nineteen that added this article.

2. The regulations promulgated by the department pursuant to this section shall:

a. Ensure that the aggregate emissions of greenhouse gases from greenhouse gas emission sources will not exceed the statewide greenhouse gas emissions limits established in section 75-0107 of this article.

b. Include legally enforceable emissions limits, performance standards, or measures or other requirements to control emissions from greenhouse gas emission sources, with the exception of agricultural emissions from livestock.



c. Reflect, in substantial part, the findings of the scoping plan prepared pursuant to section 75-0103 of this article.

d. Include measures to reduce emissions from greenhouse gas emission sources that have a cumulatively significant impact on statewide greenhouse gas emissions, such as internal combustion vehicles that burn gasoline or diesel fuel and boilers or furnaces that burn oil or natural gas.

3. In promulgating these regulations, the department shall:

a. Design and implement all regulations in a manner that seeks to be equitable, to minimize costs and to maximize the total benefits to New York, and encourages early action to reduce greenhouse gas emissions.

b. Ensure that greenhouse gas emissions reductions achieved are real, permanent, quantifiable, verifiable, and enforceable by the department.

c. Ensure that activities undertaken to comply with the regulations do not result in a net increase in co-pollutant emissions or otherwise disproportionately burden disadvantaged communities as identified pursuant to section 75-0111 of this article.

d. Prioritize measures to maximize net reductions of greenhouse gas emissions and co-pollutants in disadvantaged communities as identified pursuant to section 75-0111 of this article and encourage early action to reduce greenhouse gas emissions and co-pollutants.

e. Incorporate measures to minimize leakage.

4. a. The department may establish an alternative compliance mechanism to be used by sources subject to greenhouse gas emissions limits to achieve net zero emissions.

b. The use of such mechanism shall account for not greater than fifteen percent of statewide greenhouse gas emissions estimated as a percentage of nineteen ninety emissions pursuant to section 75-0105 of this article, provided that the use of this mechanism must offset a quantity greater than or equal to the greenhouse gases emitted. The offset of greenhouse gas emissions shall not result in disadvantaged communities having to bear a disproportionate burden of environmental impacts.

c. The department shall verify that greenhouse gas emission offset projects authorized pursuant to this subdivision represent greenhouse gas equivalent emission reductions or carbon sequestration that are real, additional, verifiable, enforceable, and permanent.

d. Any greenhouse gas emissions offset project shall comply with all of the requirements of this subdivision.

e. The department shall establish an application process that, at a minimum, requires a source to sufficiently demonstrate that compliance with the greenhouse gas emissions limits is not technologically feasible, and that the source has reduced emissions to the maximum extent practicable. After an initial four year period, the department shall review the participation of a source in this mechanism, and



make a determination as to the source's continued need for an alternative compliance, considering the extent to which the source is utilizing the best available technology standards.

f. Sources in the electric generation sector shall not be eligible to participate in such mechanism.

g. The following types of projects shall be prohibited:

- i. waste-to-energy projects, including incineration and pyrolysis; and
- ii. biofuels used for energy or transportation purposes.

h. Any greenhouse gas emission offset project approved by the department shall:

- i. be designed to provide a discernable benefit to the environment rather than to the source;
- ii. be located in the same county, and within twenty-five linear miles, of the source of emissions, to the extent practicable;
- iii. enhance the conditions of the ecosystem or geographic area adversely affected; and
- iv. substantially reduce or prevent the generation or release of pollutants through source reduction.

i. A greenhouse gas emission offset project shall not be approved by the department where the project:

- i. is required pursuant to any local, state or federal law, regulation, or administrative or judicial order;
- ii. contains measures which the source would have undertaken anyway within the next five years;
- iii. contributes to environmental research at a college or university; or
- iv. is a study or assessment without a commitment to implement the results.

j. In approving greenhouse gas emission offset projects, the department shall prioritize projects that maximize public health and environmental benefits within the state and especially localized benefits in disadvantaged communities, defined pursuant to section 75-0111 of this article.

k. The department shall establish a public registry of greenhouse gas emission offset projects approved pursuant to this subdivision.



I. Prior to the inclusion of any alternative compliance mechanism in the regulations, to the extent feasible and in the furtherance of achieving the statewide greenhouse gas emissions limit, the department shall do all of the following:

- i. consult with the council, the environmental justice advisory group, and the climate justice working group;
- ii. consider the potential for direct, indirect, and cumulative emission impacts from this mechanism, including localized impacts in disadvantaged communities as identified pursuant to section 75-0111 of this article;
- iii. design the alternative compliance mechanism to prevent any increase in the emissions of co-pollutants; and
- iv. maximize additional environmental, public health, and economic benefits for the state and for disadvantaged communities identified pursuant to section 75-0111 of this article, as appropriate.

§ 75-0111. Climate justice working group.

1. There is hereby created within the department, no later than six months after the effective date of this article, a “climate justice working group”. Such working group will be comprised of representatives from: environmental justice communities, the department, the department of health, the New York state energy and research development authority, and the department of labor.

a. Environmental justice community representatives shall be members of communities of color, low-income communities, and communities bearing disproportionate pollution and climate change burdens, or shall be representatives of community-based organizations with experience and a history of advocacy on environmental justice issues, and shall include at least three representatives from New York city communities, three representatives from rural communities, and three representatives from upstate urban communities.

b. The working group, in consultation with the department, the departments of health and labor, the New York state energy and research development authority, and the environmental justice advisory group, will establish criteria to identify disadvantaged communities for the purposes of co-pollutant reductions, greenhouse gas emissions reductions, regulatory impact statements, and the allocation of investments related to this article.

c. Disadvantaged communities shall be identified based on geographic, public health, environmental hazard, and socioeconomic criteria, which shall include but are not limited to:

- i. areas burdened by cumulative environmental pollution and other hazards that can lead to negative public health effects;
- ii. areas with concentrations of people that are of low income, high unemployment, high rent burden, low levels of home ownership, low levels



of educational attainment, or members of groups that have historically experienced discrimination on the basis of race or ethnicity; and

iii. areas vulnerable to the impacts of climate change such as flooding, storm surges, and urban heat island effects.

2. Before finalizing the criteria for identifying disadvantaged communities and identifying disadvantaged communities pursuant to subdivision one of this section, the department shall publish draft criteria and a draft list of disadvantaged communities and make such information available on its website.

a. The council shall hold at least six regional public hearings on the draft criteria and the draft list of disadvantaged communities, including three meetings in the upstate region and three meetings in the down-state region, and shall allow at least one hundred twenty days for the submission of public comment.

b. The council shall also ensure that there are meaningful opportunities for public comment for all segments of the population that will be impacted by the criteria, including persons living in areas that may be identified as disadvantaged communities under the proposed criteria.

3. The group will meet no less than annually to review the criteria and methods used to identify disadvantaged communities and may modify such methods to incorporate new data and scientific findings. The climate justice working group shall review identities of disadvantaged communities and modify such identities as needed.

§ 75-0113. Value of carbon.

1. No later than one year after the effective date of this article, the department, in consultation with the New York state energy research and development authority, shall establish a social cost of carbon for use by state agencies, expressed in terms of dollars per ton of carbon dioxide equivalent.

2. The social cost of carbon shall serve as a monetary estimate of the value of not emitting a ton of greenhouse gas emissions. As determined by the department, the social cost of carbon may be based on marginal greenhouse gas abatement costs or on the global economic, environmental, and social impacts of emitting a marginal ton of greenhouse gas emissions into the atmosphere, utilizing a range of appropriate discount rates, including a rate of zero.

3. In developing the social cost of carbon, the department shall consider prior or existing estimates of the social cost of carbon issued or adopted by the federal government, appropriate international bodies, or other appropriate and reputable scientific organizations.

§ 75-0115. Community air monitoring program.

1. For purposes of this section, the following definitions and related provisions shall apply:

a. “Community air monitoring system” means advanced sensing monitoring equipment that measures and records air pollutant concentrations in the ambient air at or near sensitive receptor locations in disadvantaged communities.



b. “Disadvantaged community” means a community identified as disadvantaged pursuant to the criteria set forth in section 75-0111 of this article.

c. “Sensitive receptors” includes hospitals, schools and day care centers, and such other locations as the department may determine.

2. a. On or before October first, two thousand twenty-two, the department shall prepare, in consultation with the climate justice working group, a program demonstrating community air monitoring systems.

b. The program shall identify the highest priority locations in disadvantaged communities around the state to deploy community air monitoring systems, which shall be communities with potentially high exposure burdens for toxic air contaminants and criteria air pollutants. The program shall be undertaken in no less than four communities statewide with regional consideration.

c. The department shall publish the air quality data produced by the community air monitoring systems deployed pursuant to this section on its website as it becomes available.

3. On or before June first, two thousand twenty-four, the department shall prepare, in consultation with the climate justice working group, a strategy to reduce emissions of toxic air contaminants and criteria air pollutants in disadvantaged communities affected by a high cumulative exposure burden. The strategy shall include criteria for the development of community emission reduction programs. The criteria presented in the strategy shall include, but are not limited to, the following:

a. an assessment and identification of communities with high cumulative exposure burdens for toxic air contaminants and criteria air pollutants.

b. a methodology for assessing and identifying the contributing sources or categories of sources, including, but not limited to, stationary and mobile sources, and an estimate of their relative contribution to elevated exposure to air pollution in impacted communities identified pursuant to paragraph a of this subdivision.

c. an assessment of the existing and available measures for reducing emissions from the contributing sources or categories of sources identified pursuant to paragraph b of this subdivision.

4. a. Based on the assessment and identification of disadvantaged communities with high cumulative exposure burdens for toxic air contaminants and criteria air pollutants completed pursuant to paragraph a of subdivision three of this section, the department shall select disadvantaged communities around the state for preparation of community emissions reduction programs. The department may select additional locations annually thereafter, as appropriate.

b. The department shall have the authority to adopt regulations establishing programs to achieve emissions reductions for the locations selected using the most cost-effective measures identified pursuant to paragraph c of subdivision three of this section.

§ 75-0117. Investment of funds.



State agencies, authorities and entities, in consultation with the environmental justice working group and the climate action council, shall, to the extent practicable, invest or direct available and relevant programmatic resources in a manner designed to achieve a goal for disadvantaged communities to receive forty percent of overall benefits of spending on clean energy and energy efficiency programs, projects or investments in the areas of housing, workforce development, pollution reduction, low income energy assistance, energy, transportation and economic development, provided however, that disadvantaged communities shall receive no less than thirty-five percent of the overall benefits of spending on clean energy and energy efficiency programs, projects or investments and provided further that this section shall not alter funds already contracted or committed as of the effective date of this section.

§ 75-0119. Implementation reporting.

1. The department in consultation with the council shall, not less than every four years, publish a report which shall include recommendations regarding the implementation of greenhouse gas reduction measures.

2. The report shall, at minimum, include:

- a. Whether the state is on track to meet the statewide greenhouse gas emissions limits established in section 75-0107 of this article.
- b. An assessment of existing regulations and whether modifications are needed to ensure fulfillment of the statewide greenhouse gas emissions limits.
- c. An overview of social benefits from the regulations or other measures, including reductions in greenhouse gas emissions and copollutants, diversification of energy sources, and other benefits to the economy, environment, and public health.
- d. An overview of compliance costs for regulated entities and for the department and other state agencies.
- e. Whether regulations or other greenhouse gas reduction measures undertaken are equitable, minimize costs and maximize the total benefits to the state, and encourage early action.
- f. Whether activities undertaken to comply with state regulations disproportionately burden disadvantaged communities as identified pursuant to section 75-0111 of this article.
- g. An assessment of local benefits and impacts of any reductions in co-pollutants related to reductions in statewide and local greenhouse gas emissions.
- h. An assessment of disadvantaged communities' access to or community ownership of the services and commodities identified in section six of the chapter of the laws of two thousand nineteen which added this article.
- i. Whether entities that have voluntarily reduced their greenhouse gas emissions prior to the implementation of this article receive appropriate credit for early voluntary reductions.



- j. Recommendations for future regulatory and policy action.
3. In preparing this report, the department shall, at a minimum, consult with the council, and the climate justice working group established in section 75-0111 of this article.
 4. The report shall be published and posted on the department's website.

