

**SENATE, No. 1833**

**STATE OF NEW JERSEY**  
**221st LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

**Senator ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**SYNOPSIS**

Requires air monitoring at certain construction projects.

**CURRENT VERSION OF TEXT**

As introduced.



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1 AN ACT concerning the presence of hazardous air contaminants at  
2 certain construction projects and supplementing Title 52 of the  
3 Revised Statutes.

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

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8 1. a. As used in this section:

9 "Department" means the Department of Environmental  
10 Protection.

11 "Enforcing agency" means the same as the term is defined in  
12 section 3 of P.L.1975, c.217 (C.52:27D-121).

13 "Hazardous air pollutant" or "HAP" means the same as the term  
14 is defined in section 2 of P.L.1954, c.212 (C.26:2C-2).

15 "Hazardous particulate" means a particulate with a diameter of  
16 10 microns or less, or a particulate of any size that is contaminated  
17 with hydrocarbons, heavy metals, or hazardous materials, as  
18 designated by the department pursuant to subsection d. of this  
19 section.

20 b. Beginning 18 months after the effective date of this section, a  
21 person who applies for a construction permit issued pursuant to  
22 section 12 of P.L.1975, c.217 (C.52:27D-130) shall include with the  
23 application:

24 (1) a certification that the soil disturbance that will be caused by  
25 the construction project is beneath the de minimis threshold  
26 established by the department pursuant to subsection d. of this  
27 section; or

28 (2) a plan for monitoring the air immediately surrounding the  
29 construction project for the presence of hazardous air pollutants and  
30 hazardous particulates, and a certification that the plan meets the  
31 standards adopted by the department pursuant to subsection d. of  
32 this section.

33 c. An enforcing agency shall not issue a construction permit  
34 pursuant to section 12 of P.L.1975, c.217 (C.52:27D-130) unless  
35 the permit application is accompanied by a certification, and, as  
36 applicable, a monitoring plan, as required pursuant to subsection b.  
37 of this section.

38 d. No later than 18 months after the effective date of this  
39 section, the department shall adopt rules and regulations, pursuant  
40 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
41 1 et seq.), which govern the monitoring of hazardous air pollutants  
42 and hazardous particulates at construction projects.

43 (1) The rules and regulations shall include:

44 (a) a designation of the size and composition of hazardous  
45 particulates that are to be monitored pursuant to this section;

46 (b) appropriate standards for the concentration of each hazardous  
47 air pollutant and hazardous particulate at construction projects,

1 which standards may vary according to the type or size of the  
2 project;

3 (c) a de minimis level of soil disturbance, below which  
4 monitoring shall not be required;

5 (d) the necessary elements of a plan for monitoring the air  
6 immediately surrounding a construction project for the presence of  
7 hazardous air pollutants and hazardous particulates, as required  
8 pursuant to subsection b. of this section

9 (2) The rules and regulations shall require, at a minimum, that:

10 (a) the owner of the property on which the construction project is  
11 located performs, or causes to be performed, daily tests for the  
12 presence of each hazardous air pollutant and hazardous particulate  
13 in the air immediately surrounding the project;

14 (b) if the test reveals the presence of a hazardous air pollutant or  
15 hazardous particulate at a concentration that exceeds the standard  
16 established by the department pursuant to this subsection,  
17 development on the site shall immediately cease, and the property  
18 owner shall notify the department and carry out any remediation or  
19 other activities that the department directs; and

20 (c) construction on the development site shall not resume until  
21 the department deems that the source of the exceedance has been  
22 appropriately remediated.

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24 2. This act shall take effect immediately.

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STATEMENT

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29 This bill would require the air surrounding certain construction  
30 projects to be monitored for the presence of hazardous air pollutants  
31 and hazardous particulates.

32 Specifically, the bill would require any application for a  
33 construction permit pursuant to section 12 of the "State Uniform  
34 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) to  
35 include either (1) a certification that the project will cause a  
36 minimal level of soil disturbance, or (2) a plan for monitoring the  
37 air around the project for hazardous air pollutants and hazardous  
38 particulates, and a certification that the plan conforms to the  
39 regulations to be adopted by the Department of Environmental  
40 Protection (DEP) under the bill. The bill would prohibit a  
41 municipal or county construction official or subcode official from  
42 issuing a construction permit unless the permit application includes  
43 a certification, and, as applicable, an air monitoring plan, as  
44 required under the bill.

45 The bill defines "hazardous air pollutant" to mean the same as  
46 the term is used in the federal Clean Air Act, which currently  
47 includes 188 pollutants. The bill be defines "hazardous particulate"

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1 to mean a particulate with a diameter of 10 microns or less, or a  
2 particulate of any size that is contaminated with hydrocarbons,  
3 heavy metals, or hazardous materials. The bill would require the  
4 DEP to designate the size and composition of each hazardous  
5 particulate that would be regulated under the bill.

6 The bill would require the DEP to adopt rules and regulations to  
7 implement the bill's provisions no later than 18 months after the  
8 bill's enactment. Subsection d. of section 1 of the bill would  
9 establish certain minimum provisions for the rules and regulations.