



“Indirect Source Rule” Emerges as Threat to NJ’s Logistics Industry

State governments have begun to employ a concept known as the “Indirect Source Rule” (“IDR”) to regulate truck emissions emanating from large warehouses and logistics hubs. California was the first to employ this strategy with passage of the Warehouse Actions and Investments to Reduce Emissions (“WAIRE”) program in 2021. WAIRE mandates that large warehouses implement emission-reduction strategies. Facilities that fail to comply are subject to substantial penalties. Indeed, California has levied \$50 million in fines since its adoption of WAIRE. Following California’s lead, states such as Colorado, New York, and New Jersey are considering similar legislation.

In June 2024, the Environmental Defense Fund (“EDF”) released a report concerning New Jersey which identified diesel-powered freight trucks as one of the largest sources of air pollution in the state. The full report can be found [here](#). The report linked much of this alleged pollution to large warehouses, specifically those located in “overburdened” communities.

Following the EDF report, Senator John McKeon introduced S3546: The Warehouse and Port Pollution Reduction Act. The bill requires qualifying warehouses, ports, or distribution centers with significant truck traffic to obtain indirect source air pollution permits from the NJ Department of Environmental Protection (“NJDEP”). Such permits will be required to legally operate. According to Section 3d, applicants for permits must (1) pay an annual (undetermined) permit fee and (2) remain in compliance with the air pollution mitigation standards created by NJDEP. Through a points system, regulated businesses must implement pollution reduction strategies annually to cross the threshold into compliance with mitigation standards. The proposed standards include, in part, a shift to electric vehicles and battery storage to achieve reduced air pollution.

Critically, the bill does not distinguish between trucks owned by the warehouse and those of subcontractors or independent parties. The regulatory scope of the bill simply covers all truck traffic associated with the facility, thus the notion of “indirect source”. The language targets truck traffic within a facility regardless of vehicle ownership or control. Section 7c of S3546 requires facilities to without exception report the amount and mileage of “inbound and outbound truck trips by vehicle weight and class.” The emissions elimination plan is aimed at the logistics industry by targeting all truck activity associated with a facility, whether the trucks are owned by the warehouse or belong to third parties making deliveries.



The proposed bill requires businesses to eliminate air pollution by 2050. Businesses may accomplish emissions elimination by switching to “truck electrification, . . . on-site solar power generation, battery storage, and managed charging systems, or other means.” New Jersey seeks to impose this duty of zero emissions on the regulated facilities by wielding strong enforcement policies against business owners in California’s wake.

At press time, S.3546 is pending in the Senate Environment and Energy Committee awaiting review.

For further information, contact John Holub. jholub@cozen.com