



Environmental Policy in Delaware

Climate change, environmental justice, zero emission vehicles, and more

BY ROBERT W. WHETZEL AND TYLER E. CRAGG

THE 152ND GENERAL ASSEMBLY is in session, and all indications point to an active year for environmental legislation. In 2022, climate change and environmental justice bills were introduced but did not pass. Sponsors of those bills are expected to introduce new bills this year, and there is a high likelihood that some form of legislation will be enacted. Other environmental bills have been suggested by legislators for introduction later in this session. DNREC is also active with several regulatory initiatives, including the adoption of California's zero-emission vehicle standards.

CLIMATE CHANGE

Greenhouse Gas Reduction Targets

Introduced in May 2022, Senate Bill 305 (SB 305) addressed four major topics: greenhouse gas emissions reduction targets, climate change planning, state agency implementation requirements, and the creation of a state energy office. New legislation this year is expected to address the same issues.

The proposed emission reduction targets in SB 305 were ambitious—50% by 2030 and 90% by 2050, as compared to 2005 levels. These targets applied to both Delaware's in-state emissions and out-of-

state emissions related to electricity consumed in Delaware. The Delaware State Chamber of Commerce has urged that emission reduction targets are directed to "net" emissions and should include mechanisms for offsets and market-based mechanisms. We expect that this year's bill will address those topics in some fashion. We also expect that any new climate legislation will direct all state agencies to consider greenhouse gas emission reduction targets in the promulgation and amendment of regulations, and to consider the reduction targets in purchasing and procurement decisions.

In addition to setting reduction targets, the legislation is expected to codify the state's climate change planning process, including required updates to the state Climate Action Plan, the creation of a technical committee to assist with the Climate Action Plan, and the formation of a state energy office tasked with developing a comprehensive state energy plan.

Adoption of California Vehicle Emissions Standards

DNREC is amending 7 *Del. Admin. C.* § 1140 to adopt California's most recent low emission vehicle standards. The proposed regulation will require that auto manufacturers sell a certain percentage of zero-emissions

vehicles (“ZEV”) starting with model year 2027. A ZEV credit bank will also be created by 2027, with credits first available in 2025. The proposed regulations have been the subject of several public workshops and have now been published for public comment, with a public hearing scheduled for April 26, 2023.

ENVIRONMENTAL JUSTICE

Environmental justice initiatives are underway at both the State and New Castle County level. Last year, legislation was introduced with the stated goal of protecting environmentally overburdened communities, as defined by the bill. The bill would have required permit applications to include an environmental justice impact report, created a new environmental justice review board, and delegated DNREC to review all applications and permit renewals for negative impacts to environmentally overburdened communities. Upon a finding of a negative impact, DNREC would have been authorized to deny issuance of a permit. Introduction of new environmental justice legislation is expected this session, but as of this writing the details of the bill have not yet been made available. DNREC has created a new Environmental Justice Coordinator position within its Office of the Secretary and appointed Dr. Katera Moore to that role.

Separately, New Castle County is considering environmental justice issues in the context of planning and zoning to address environmental

justice concerns. The County is creating an environmental justice advisory committee to assess whether regulatory revisions are needed.

Delaware’s Green Amendment and Other Initiatives

Among these recent environmental initiatives, House Bill 220 (HB 220) was introduced in April 2022 to amend Delaware’s constitution to create a right to a clean and healthy environment. This proposed amendment would have barred the State from infringing on this right, declared natural resources to be common property, and appointed the State as trustee of these resources. Although HB 220 was not enacted, there is some likelihood of re-introduction this year.

Additional legislative initiatives are likely in the coming months, potentially on a wide range of environmental topics. The State Chamber is monitoring these developments, participating in stakeholder discussions when possible, and

welcomes participation by members with interest in these areas. ■



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