

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 2247'

6
7 H.P. 1692

House of Representatives, March 15, 1984

8 Submitted by the Department of Environmental Protection pursuant to
9 Joint Rule 24.

10 Referred to the Committee on Energy and Natural Resources. Sent up
for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Hall of Sangerville.

11 Cosponsors: Senator Kany of Kennebec and Representative Andrews of
Portland.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FOUR
16

17 AN ACT to Amend the Provisions of the
18 Law Relating to the Control of Hazardous Air
19 Pollutants.
20

21 Be it enacted by the People of the State of Maine as
22 follows:

23 Sec. 1. 22 MRSA c. 270 is enacted to read:

24 CHAPTER 270

25 SCIENTIFIC ADVISORY PANEL

26 §1661. Findings and declaration of purpose

27 The Legislature finds that pure scientific con-
28 siderations must govern the review and evaluation of
29 potential health risks associated with chemical
30 pollutants.

1 The Legislature also finds that a scientific re-
2 view and evaluation of potential health risks associ-
3 ated with air pollutants is an integral component of
4 a successful Air Toxic Program.

5 The Legislature also finds that such scientific
6 review and evaluation is the responsibility of the
7 Department of Human Services which is charged with
8 the protection of the public's health and welfare and
9 has the professional expertise to assess potential
10 public health risks from chemical hazards.

11 The purpose of this chapter is to establish a
12 Scientific Advisory Panel within the Department of
13 Human Services, Bureau of Health, which would provide
14 the department with the ability to carry out its re-
15 sponsibilities in the Air Toxic Program and other re-
16 lated duties regarding public health impact of chemi-
17 cal hazards.

18 §1662. Definitions

19 As used in this chapter, unless the context indi-
20 cates otherwise, the following terms have the follow-
21 ing meanings.

22 1. Bureau. "Bureau" means the Bureau of Health.

23 2. Chairman. "Chairman" means the Chairman of
24 the Scientific Advisory Panel.

25 3. Commissioner. "Commissioner" means the Com-
26 missioner of Human Services.

27 4. Department. "Department" means the Depart-
28 ment of Human Services.

29 5. Director. "Director" means the Director of
30 the Bureau of Health.

31 6. Substances. "Substances" means potentially
32 hazardous air pollutants.

33 §1663. Scientific Advisory Panel

34 The department shall establish a 7-member Scien-
35 tific Advisory Panel within the Bureau of Health.

1 The commissioner shall appoint members of the panel
2 who shall serve for 3-year terms, except that ini-
3 tially 3 members shall be appointed for 3 years, 2
4 members for 2 years and 2 members for one year. The
5 commissioner shall consult with the Commissioner of
6 Environmental Protection and may consult with other
7 departments on the selection of panel members. Each
8 member shall be an individual with expertise in one
9 or more of the following disciplines: Epidemiology,
10 toxicology, genetic toxicology or related area,
11 biostatistics, oncology, respiratory medicine or re-
12 lated area, industrial hygiene, occupational medicine
13 and atmospheric chemistry. The commissioner shall
14 determine the term of each appointee with the re-
15 strictions provided by this section. The commis-
16 sioner shall appoint the chairman of the panel who shall
17 serve for a one-year term.

18 §1664. Compensation of the panel

19 Panel members shall serve without pay, but shall
20 be compensated for expenses incurred in carrying out
21 their duties.

22 §1665. Call to meetings

23 For the purpose of holding a meeting, 4 members
24 shall constitute a quorum. The panel shall meet at
25 the call of:

26 1. Director. The director or his authorized
27 representative;

28 2. Chairman. The chairman; or

29 3. Members of the panel. Four or more members
30 of the panel.

31 §1666. Voting

32 Recommendations by the panel shall be by majority
33 vote with a written opinion being provided. If there
34 is a minority of more than one member, a minority
35 opinion may be written. A panel member may vote in
36 absentia in writing if he is unable to attend meet-
37 ings.

1 §1667. Duties

2 The panel shall carry out the following duties:

3 1. Health data. Collect and consider the health
4 data for substances or classes of substances in the
5 order in which they will be considered for adoption
6 of acceptable ambient levels by the Board of Environ-
7 mental Protection;

8 2. Review evaluation. Establish a protocol for
9 the review or evaluation of substances for the fol-
10 lowing parameters: Carcinogenicity, in vivo and in
11 vitro mutagenicity, teratogenicity, reproductive ef-
12 fects, neurotoxicity, acute and chronic reversible
13 and irreversible effects, pharmacokinetics and
14 pharmacodynamics, high-risk groups, bioaccumulation and
15 atmospheric fate;

16 3. Report health consequences. Report to the
17 director the health consequences of exposure to vari-
18 ous ambient air concentrations indicating a range of
19 risk levels for cancer-causing chemicals and the
20 health consequences of exposure to various ambient
21 air concentrations of noncancer-causing chemicals,
22 after considering the adequacy of the data base, ani-
23 mal to human extrapolation, high-risk groups and any
24 other health-based considerations; and

25 4. Health-based recommendations. Report to the
26 director or his authorized representative whether the
27 substance should be listed or delisted and other
28 health-based recommendations as deemed necessary.

29 §1668. Other duties

30 The panel may review and evaluate potential
31 health risks associated with pollutants other than
32 those in the air in accordance with restrictions in
33 section 1670.

34 §1669. Prohibitions

35 The department recognizes the need for pure sci-
36 entific considerations in the review and evaluation
37 of potential health risks associated with air
38 pollutants. The panel is prohibited from injecting

1 political, economic and technology considerations in-
2 to their decision-making process.

3 §1670. Requests to the panel

4 1. Program requests. Requests made in associa-
5 tion with the Air Toxic Program shall be given the
6 highest priority.

7 A. The panel may review or evaluate the poten-
8 tial health risks associated with substances at
9 the request of:

10 (1) The director or his authorized repre-
11 sentative;

12 (2) The chairman;

13 (3) Four or more members of the panel; or

14 (4) The Commissioner of Environmental Pro-
15 tection following notice to the director or
16 his authorized representative.

17 B. The cost for making the review and evaluation
18 shall be covered by funds appropriated to carry
19 out the purposes of this chapter.

20 C. Requests from parties other than those listed
21 in this subsection shall be reviewed by the di-
22 rector or his authorized representative and, if
23 justified, shall be forwarded to the panel. The
24 director or his authorized representative may as-
25 sess any reasonable costs to the party making
26 those requests.

27 2. Requests referred. Requests unrelated to the
28 Air Toxic Program shall be referred to the director
29 or his authorized representative. If the director or
30 his authorized representative determines that the re-
31 quest is justified, the request shall be forwarded to
32 the panel. The director or his authorized represen-
33 tative may assess any reasonable costs to the party
34 making the requests.

35 §1671. Availability of panel's opinions and recom-
36 mendations

1 The director shall compile all available informa-
2 tion and prepare a report for each substance, class
3 of substances or pollutants, other than those in the
4 air, evaluated by the panel and submit this report to
5 the commissioner, director or chairman of the group
6 that requested the health risk review and evaluation.

7 §1672. Fiscal and management responsibilities

8 The department shall be responsible for all fis-
9 cal and management functions necessary for the panel
10 to execute its duties.

11 §1673. Contracts with educational, research and el-
12 eeomynary institutions

13 The bureau shall, to the maximum extent feasible
14 and within the amounts appropriated for the purposes
15 of the panel, contract with educational, research and
16 eleemosynary institutions within and outside the
17 State for research which can be carried out more eco-
18 nomically, expeditiously or conveniently by those
19 nonstate institutions.

20 §1674. Acceptance of funds

21 The bureau may accept any public or private funds
22 which may be available for carrying out the purposes
23 of this panel.

24 Sec. 2. 38 MRSA §582, sub-§1-A is enacted to
25 read:

26 1-A. Acceptable ambient level. "Acceptable am-
27 bient level" means, with respect to any hazardous air
28 pollutant, that concentration which provides accept-
29 able protection from acute or chronic toxicological
30 effects or which is determined to provide an accept-
31 able level of risk with respect to carcinogenicity.
32 The averaging time is dependent on the specific
33 health impacts known to be associated with a com-
34 ound. Selection of an averaging time shall reflect
35 the chronic or acute toxicity of the substance and
36 its tendency to bioaccumulate. The acceptable ambient
37 level shall provide the basis for setting specific
38 emission limitations.

1 Sec. 3. 38 MRS-A §585-B, as enacted by PL 1983,
2 c. 535, §2, is repealed and the following enacted in
3 its place:

4 §585-B. Hazardous air pollutant control program

5 1. Findings and purpose. The Legislature finds
6 and declares that advancing scientific knowledge in-
7 creasingly demonstrates that many air pollutants may
8 reasonably be anticipated to result in an increase in
9 mortality or an increase in serious irreversible, or
10 incapacitating reversible, illness to the residents
11 of the State. Accordingly, the Legislature concludes
12 that it is in the public interest to establish a pro-
13 gram that will increase the knowledge of these poten-
14 tial health risks and use existing data and
15 methodologies to begin reducing and controlling emis-
16 sions of hazardous air pollutants, in order to pro-
17 tect the public health.

18 The Legislature establishes such a program, intending
19 to exercise the police power of the State through the
20 Board of Environmental Protection to regulate hazard-
21 ous air pollutants emitted into the ambient air.

22 With respect to all pollutants to be controlled under
23 this program, the available data are inadequate to
24 establish an ambient air quality standard under the
25 existing air pollution control program. The program
26 requires the establishment and use of acceptable am-
27 bient levels, as the best expression of a regulatory
28 target now definable. Because of the inexactness
29 that will often be inherent in established acceptable
30 ambient levels, and the existing lack of adequate am-
31 bient monitoring equipment for these pollutants, ac-
32 ceptable ambient levels are not intended to operate
33 like ambient air quality standards as a legal limita-
34 tion on ambient pollutant concentrations. Until
35 health effects are better understood, and controls
36 and monitoring equipment better developed, acceptable
37 ambient levels will function as the basis for emis-
38 sion limitations established through individual
39 source licensing or by regulation.

40 Since ambient concentrations of hazardous air
41 pollutants are not controlled directly, a requirement
42 that all emissions of hazardous air pollutants re-

1 ceive best practical treatment is an essential pro-
2 gram element to control ambient concentrations re-
3 sulting from multiple source emissions, to protect
4 against unknown and unsuspected synergistic effects
5 when different pollutants are present at the same
6 time and place, and to encourage technological devel-
7 opment to achieve less hazardous processes and better
8 means of control.

9 2. Acceptable ambient levels. The board may
10 control emissions of hazardous air pollutants without
11 establishing ambient air quality standards for those
12 pollutants. The Legislature recognizes that the ex-
13 isting state of scientific knowledge is often inade-
14 quate to permit accurate prediction of the health ef-
15 fects of air pollutants thought to be hazardous. For
16 the purpose of reducing existing emissions of these
17 pollutants, and controlling new emissions, the board
18 may adopt acceptable ambient levels, by regulation
19 and after hearing, which shall provide the basis for
20 setting specific emission limitations at each li-
21 icensed source. In establishing acceptable ambient
22 levels, the board shall consider the health risk as-
23 sociated with each hazardous air pollutant, using the
24 most preferred of the following methods available for
25 that pollutant. In order of preference these methods
26 are:

27 A. A comprehensive health risk assessment to de-
28 termine an acceptable ambient level for a specif-
29 ic compound is the most desirable method;

30 B. Adjusting an occupational standard with a
31 factor which reflects a reasonable margin of
32 safety and continuous exposure. An occupational
33 standard is established to only provide protec-
34 tion to a healthy adult at an exposure of 40
35 hours per week. A safety factor that in the
36 board's judgment provides for protection of sus-
37 ceptible individuals, such as children, elderly,
38 chronically ill and pregnant women, from continu-
39 ous exposure and that provides an adequate margin
40 of safety shall be utilized;

41 C. Utilizing other information of the type that
42 provides the scientific basis of the occupational
43 standards, such as inhalation, oral and epidermal

1 toxicity data, and information from other animal
2 toxicity studies;

3 D. Using a preliminary health assessment value
4 for those compounds recognized and classified as
5 toxics but for which there is a lack of informa-
6 tion to adequately derive a pollutant-specific
7 acceptable ambient level. This value would be in
8 the range of acceptable ambient levels of com-
9 pounds with similar toxicity classifications or
10 rankings. It is recognized that there is a de-
11 gree of uncertainty inherent in this method which
12 requires a conservative regulatory approach.

13 E. The board shall solicit and consider any ad-
14 vice of the Scientific Advisory Panel established
15 in the Department of Human Services. In addition
16 to the toxicity of the pollutant itself, the
17 board shall consider the macroeconomic, energy,
18 health and environmental impacts associated with
19 the following factors which may have a bearing on
20 the degree of control appropriate in Maine:

21 (1) The prevalence in Maine of the
22 pollutant to be regulated including the eco-
23 nomical dependence on the substance;

24 (2) The extent to which the public is ex-
25 posed to the pollutant in the ambient air;
26 and

27 (3) The types and availability of control,
28 including substitution of less toxic sub-
29 stances.

30 In setting acceptable ambient levels, the board shall
31 not consider the costs of controlling particular
32 sources, although such information may be considered
33 in connection with a variance request presented to
34 the board under subsection 6.

35 The board may hire consultants or appoint advisory
36 committees to assist in gathering and evaluating in-
37 formation needed to adopt acceptable ambient levels.

38 A source of hazardous air pollutants shall be allowed
39 to have a reasonable area in which to allow its emis-

1 sions to disperse before they are required to meet
2 the applicable ambient air quality standard. The
3 reasonable area allowed for dispersion must be under
4 the exclusive control of the applicant, and to which
5 the general public does not have rights of access,
6 and can include passage easements, utility easements,
7 private roadways, private rights-of-way and railways.
8 The size of the dispersal area shall be no larger
9 than necessary to accommodate a reasonably engineered
10 source, and not exceed an area with a diameter of one
11 kilometer.

12 Acceptable ambient levels are effective immediately
13 after promulgation for new sources.

14 3. License required. The board may, by regula-
15 tion, provide that no person shall operate a new or
16 existing source of hazardous air pollutants without
17 an air emission license. The board shall grant a li-
18 cence to emit hazardous air pollutants whenever the
19 criteria of this subsection are met.

20 A. The burdens shall be upon the applicant to
21 demonstrate that each of the following criteria
22 have been met for any and each hazardous air
23 pollutants emitted:

24 (1) Emissions from the source, by itself,
25 will not cause the acceptable ambient level
26 to be exceeded; and

27 (2) Each emission is receiving best practi-
28 cal treatment, which is the lowest emission
29 rate achievable considering reasonable chem-
30 ical substitutions or process modifications,
31 the reasonably available control technolo-
32 gies, the expense to the applicant of pur-
33 chasing and operating such control equipment
34 or costs incurred in chemical reformulations
35 or process changes, including consideration
36 of the relative marketability and quality of
37 product from each alternative. The degree
38 of control required may vary depending upon
39 the relative toxicity of the pollutant, its
40 reactivity and persistence. Best practical
41 treatment may be considered to be no air
42 pollution control.

1 Best practical treatment is the means in-
2 tended to minimize the risk of public expo-
3 sure to hazardous air pollutants from multi-
4 ple sources, the possibility of synergistic
5 effects among different pollutants, and the
6 means to eliminate or reduce atmospheric
7 hazardous air pollutants to the lowest level
8 possible, on the premise that no safe ambi-
9 ent level exists.

10 The process and emission control equipment
11 representing best practical treatment shall
12 be both reliable in conforming to design
13 specifications and expected operating char-
14 acteristics, and dependable in performance,
15 except that allowances will be made for in-
16 novative control technology. In no case may
17 best practical treatment result in emissions
18 greater than those permitted by the United
19 States Clean Air Act, Section 111, for New
20 Source Performance Standards and Section
21 112, for National Emission Standards for
22 Hazardous Air Pollutants, nor for any haz-
23 ardous waste incinerator shall a destruction
24 rate or removal efficiency be less than
25 99.99%.

26 B. The board:

27 (1) Shall impose specific emission limita-
28 tions which have been demonstrated to result
29 from the application of best practical
30 treatment and considering all such limita-
31 tions at the source, will achieve all appli-
32 cable acceptable ambient levels or variance
33 concentrations allowed by the terms of a
34 variance;

35 (2) Shall impose on a case-by-case basis a
36 schedule by which the licensee shall comply
37 with any regulations adopted under this sec-
38 tion, which schedule shall not extend beyond
39 the term of the first subsequent license.
40 The board in establishing compliance sched-
41 ules on licenses for existing sources shall
42 impose the most expeditious schedule practi-
43 cable considering the existing state of

1 technology, the retrofitting required for
2 the individual source and the time that has
3 elapsed since promulgation of the acceptable
4 ambient level;

5 (3) May impose conditions to assure any
6 control equipment is operated in a manner
7 consistent with the design specifications;
8 and

9 (4) May impose any other appropriate and
10 reasonable conditions.

11 4. Controls required by rule. When the board
12 promulgates an acceptable ambient level it shall regu-
13 late any and all sources whose individual or collec-
14 tive impacts are significant. Whenever the board de-
15 termines that the number, size, location or other
16 characteristics of sources of a hazardous air
17 pollutant make regulation by licensing impractical,
18 the board shall regulate emissions from unlicensed
19 sources by adopting rules requiring the emitters to
20 reduce or eliminate emissions of one or more hazard-
21 ous air pollutants. These rules may establish a maxi-
22 mum emission rate, or, where an emission standard is
23 not feasible, the board may impose standards of de-
24 sign, operation, equipment or work practice standards
25 to regulate hazardous air pollutant emissions. To
26 the extent feasible, the reduction required by rule
27 shall be consistent with best practical treatment, as
28 defined in section 585-B, subsection 3, and shall be
29 designed to achieve the acceptable ambient level of
30 the pollutant regulated.

31 Where any pollutant emitted from a given source is
32 regulated both by a provision of a license issued by
33 the board to that source and by a rule, the terms of
34 the license shall govern to the extent the 2 are in-
35 consistent.

36 5. Modification and testing. Any licensee pro-
37 posing to increase the amount or type of hazardous
38 air pollutants to the extent the board has determined
39 will require a license shall apply for an amendment
40 to its license at least 90 days prior to modifying
41 its emissions.

1 If the proposed additional emission is the result of
2 a substitution of one substance for another necessi-
3 tated by the unanticipated and uncontrolled unavaila-
4 bility of the substance giving rise to the licensed
5 emission, or is the result of a trial or test for a
6 specific product, the person may emit the hazardous
7 air pollutant without first applying for an air emis-
8 sion license or amendment thereto provided that:

9 A. The department is notified of the substitu-
10 tion or trial;

11 B. The duration of the testing mode does not ex-
12 ceed a reasonable duration, as determined by the
13 board, for the type of facility or the conditions
14 surrounding unavailability; and

15 C. At all times during operation in this mode,
16 the owner or operator shall maintain and operate
17 any affected facility or equipment, including as-
18 sociated air pollution control equipment, in a
19 manner consistent with good air pollution control
20 practice for minimizing emissions.

21 Nothing in this section shall be construed to limit
22 the ability of any facility or process equipment from
23 being licensed to operate with multiple formulations.

24 6. Variance. The board may allow an emission to
25 exceed the acceptable ambient level when the emission
26 will not in the best judgment of the board result in
27 an unreasonable risk to public health. The board may
28 issue a license with an emission rate predicted to
29 exceed the acceptable ambient level whenever it finds
30 that:

31 A. After application of best practical treat-
32 ment, emissions from the source will cause the
33 acceptable ambient level to be exceeded, but fur-
34 ther emission reduction would constitute an undue
35 economic hardship on the people dependent on the
36 source and granting the variance will not expose
37 persons in the vicinity of the source to an un-
38 reasonable health risk; or

39 B. Additional scientific evidence submitted with
40 the license application justifies amending the
41 acceptable ambient level.

1 A variance granted under subsection 5, paragraph B,
2 shall be issued for a term not to exceed 2 years and
3 shall be nonrenewable, during which time the depart-
4 ment shall complete rulemaking.

5 7. Emissions inventory. The Department of Envi-
6 ronmental Protection is authorized and directed to
7 carry out and maintain an inventory of the sources in
8 the State emitting any substance which has been des-
9 ignated or is suspected to be a hazardous air
10 pollutant.

11 A. This inventory shall include the following
12 data for each such substance:

13 (1) The number of sources;

14 (2) The location of each such source or
15 category of source;

16 (3) The quantity emitted by each such
17 source or category of source;

18 (4) The total emissions; and

19 (5) The percentage of total emissions gen-
20 erated by sources with existing air li-
21 censes.

22 B. In conducting this inventory, the department
23 may rely upon questionnaires or other reasonable
24 methodologies, including those established by the
25 United States Environmental Protection Agency in
26 "Procedures for the Preparation of Emission In-
27 ventories for Volatile Organic Compounds," Volume
28 I, Environmental Protection Agency -
29 450/2-77-028, 2.d Ed., Sept., 1980, for the pur-
30 pose of carrying out this duty as promptly and
31 efficiently as possible. The department shall
32 not fail, in any event, to include in its inven-
33 tory any of the following potentially significant
34 sources of toxic or carcinogenic air pollutants:

35 (1) Architectural surface coatings;

36 (2) Auto body paint shops;

- 1 (3) Boilers burning uncontaminated virgin
2 fuels such as wood, coal, oil and gas;
- 3 (4) Dry cleaners;
- 4 (5) Gasoline handling and marketing opera-
5 tions;
- 6 (6) Lacquer spray paint operations;
- 7 (7) Moving sources;
- 8 (8) Permitted open burning;
- 9 (9) Residential coal-burning stoves;
- 10 (10) Residential wood-burning stoves and
11 fireplaces;
- 12 (11) Service station degreasers; and
- 13 (12) Vaporizing pot waste oil burners.

14 C. In carrying out this inventory, the department
15 may require persons to provide information under
16 oath on forms supplied by the department. Fail-
17 ure to provide that information when required
18 shall subject the person of whom it is requested
19 to a civil penalty of not more than \$100 for each
20 day's delay. Submission of false information
21 shall constitute a violation of Title 17-A, sec-
22 tion 452, in addition to remedies otherwise
23 available by law.

24 8. Transition provisions. In order to implement
25 this chapter on an orderly, systematic and reasonably
26 scientific basis, the Legislature directs the Depart-
27 ment of Environmental Protection to take the follow-
28 ing actions.

29 A. Within 6 months of the effective date of this
30 chapter, the department shall complete an inven-
31 tory required in subsection 7, covering all
32 pollutants listed, and the board shall promulgate
33 by regulation an initial list of substances de-
34 termined to be hazardous air pollutants and a
35 schedule for adoption of acceptable ambient lev-

1 els. The schedule shall consider the most preva-
2 lent and toxic substances first, except that sub-
3 stances for which there is substantial agreement
4 as to the acceptable ambient level may be consid-
5 ered first. The Scientific Advisory Panel shall
6 be given 3 months to respond.

7 B. Within 3 months of notification that an ac-
8 ceptable ambient level is to be considered for a
9 substance, the Scientific Advisory Panel shall
10 report to the Bureau of Health its health risk
11 assessment. The bureau shall communicate those
12 findings to the board and department. Nothing in
13 this section precludes the board from acting
14 should the Scientific Advisory Panel fail to re-
15 port within a reasonable time.

16 C. Within 3 months after receiving a report from
17 the Scientific Advisory Panel, the board shall
18 delist the pollutant or adopt an acceptable ambi-
19 ent level, as appropriate.

20 D. Nothing may be construed to prevent comple-
21 tion of the task assigned and commencement of the
22 next stage in a shorter period of time.

23 Sec. 4. 38 M RSA §591-A is enacted to read:

24 §591-A. Prohibition with respect to hazardous air
25 pollutants

26 With respect to emissions of hazardous air
27 pollutants:

28 1. Emission of pollutants in violation of li-
29 cence. No source required to obtain a license for
30 hazardous air pollutants may emit any hazardous air
31 pollutant substances in violation of the terms or
32 conditions of that license; and

33 2. Emission of pollutants in violation of regu-
34 lation. No person owning or controlling a source not
35 required to obtain a license for hazardous air
36 pollutants may emit any hazardous air pollutants in
37 violation of any regulation requiring limitation of
38 those emissions then in effect.

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STATEMENT OF FACT

Public Law 1983, chapter 535 of the First Regular Session of the 111th Legislature directed the Commissioner of Environmental Protection to recommend a program to control hazardous air pollutants. Of the many possible approaches to controlling hazardous air pollutants, this program is designed on the basis of limiting public exposure to an acceptable level.

The 3 essential elements of this program are:

1. A list of hazardous air pollutants for which ambient concentrations are established (called acceptable ambient levels) based on setting acceptable levels of risk for the population. This acceptable level is not to be treated as a standard, because ambient air quality standards have historically protected health and other environmental considerations with a margin for safety. With certain hazardous air pollutants, there is no safe level. An acceptable ambient level implies that some risk, an acceptable risk, is being taken;

2. A compound specific comprehensive emission inventory to identify process sources which should be licensed and other categories of sources which collectively emit significant quantities of hazardous air pollutants; and

3. A licensing program for certain sources and a general emission limitation by rule for sources too numerous, small or similar to require licenses. New sources will have to be licensed before construction or meet the regulation upon start-up. Existing sources will come into compliance over a reasonable amount of time allowed in the licensing process or by the regulation.

The Bureau of Health is responsible for conducting scientific investigations of the public health implications of exposures to hazardous air pollutants at various levels, utilizing a Scientific Advisory Panel to provide independent analysis of the toxicity of substances and peer review of the analysis. The Board of Environmental Protection will then weigh the health risks against other factors, including politi-

1 cal and economic considerations, to determine the ap-
2 propriate regulatory or licensing decision. The
3 board is authorized to issue variances to allow emis-
4 sions that would exceed the acceptable ambient levels
5 when to do so would create an economic hardship, but
6 no variance may unreasonably expose the public to
7 hazardous substances.

8 The department will complete its inventory and
9 establish a list of hazardous air pollutants within 6
10 months. At the time it promulgates its list of haz-
11 ardous air pollutants, it will include a schedule for
12 its consideration of acceptable ambient levels to be
13 adopted for these hazardous air pollutants. The Bu-
14 reau of Health and Scientific Advisory Panel therein
15 will have 3 months to respond. The board will then
16 have 3 months to adopt an acceptable ambient level or
17 delist the pollutant following the Scientific Advis-
18 ory Panel's response.

19 Resources are provided to the Department of Human
20 Services, Bureau of Health and the Department of En-
21 vironmental Protection, Bureau of Air Quality Control
22 in order to implement the program.

23 5974022784