

The Commonwealth of Massachusetts

SENATE, May 14, 1984.

The committee on Natural Resources and Agriculture, to whom was referred the petition (accompanied by bill, Senate, No. 1240) of Carol C. Amick, John W. Olver and other members of the General Court for legislation to limit acid rain by implementing limitations on annual sulfur dioxide emissions; the petition (accompanied by resolve, Senate, No. 1257) of Nicholas J. Costello, Richard A. Kraus, Nicholas J. Buglione, Barbara Hildt and Frank A. Emilio that provision be made for an investigation and study by a special commission (including members of the General Court) relative to acid rain, so-called; the petition (accompanied by bill, Senate, No. 1366) of Robert D. Wetmore for legislation to establish an acid rain control program in Massachusetts; the petition (accompanied by bill, Senate, No. 1367) of Robert D. Wetmore for legislation relative to placing a question regarding a national acid rain control program on the state ballot in nineteen hundred and eighty-four; the petition (accompanied by resolve, House, No. 2599) of David B. Cohen and other members of the General Court for an investigation by a special commission (including members of the General Court) relative to the problems of acid rain; and the petition (accompanied by bill, House, No. 2746) of Peter Y. Flynn, Allan R. Chiocca and other members of the General Court relative to establishing atmospheric boundaries of the Commonwealth.

For the Committee,

CAROL C. AMICK

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-four.

AN ACT TO LIMIT ACID RAIN AND ACID DEPOSITION IN MASSACHUSETTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. M.G.L. Chapter 111 is hereby amended by in-
2 serting the following new Section 142K, consisting of Sections
3 1 through 8 of this Act, after the existing Section 142J:

4 For the purpose of preventing, mitigating, or alleviating
5 damage to the resources of the Commonwealth or to the prop-
6 erty or health of its citizens resulting from the deposition of
7 precipitation, particles, or particulates containing sulfur or
8 sulfur compounds, the Department of Environmental Quality
9 Engineering, hereinafter referred to as the Department, shall
10 by regulation adopt and implement a limitation on the total
11 statewide actual annual sulfur dioxide emissions in accordance
12 with the provisions of this Act.

1 SECTION 2. Within 20 days of the effective date of this Act,
2 and after notice and a public hearing, the Department shall
3 make a determination of the total statewide actual annual
4 sulfur dioxide emissions, from all sources in Massachusetts, for
5 the years 1979, 1980, 1981, and 1982. The Department shall
6 make this determination using such reasonably accurate and
7 mathematically and scientifically appropriate methods as the
8 Department may find necessary.

1 SECTION 3. Commencing in the year of enactment of this
2 Act, the Department shall prepare annually an emissions re-
3 port and shall make said report available to the public by July
4 1st or, in the year on enactment, as soon thereafter as prac-
5 ticable. Such report shall set forth the Department's determi-
6 nation of the total statewide actual annual sulfur dioxide
7 emissions of each of four calendar years, which shall be
8 selected in accordance with the requirements of this section.
9 The years selected shall be those in the 4-year period com-
10 mencing January 1st of the five years prior to the year in

11 which the report is being prepared and ending December 31
12 of the year two years prior to the year in which the report
13 is being prepared. The Department's determination of emis-
14 sions in these four years shall be arrived at using a reasonably
15 accurate and mathematically and scientifically appropriate
16 method not inconsistent with the method used to make the de-
17 termination required by Section 2 of this Act. The report shall
18 also set forth the average of the levels of sulfur dioxide emis-
19 sions for the four-year period described in this section.

1 SECTION 4. Within eight months of the effective date of this
2 Act, and in accordance with the state Administrative Pro-
3 cedure Act, the Department shall adopt regulations prohibit-
4 ing any four-year average set forth pursuant to Section 3 from
5 exceeding the average of total statewide actual annual sulfur
6 dioxide emissions in the years 1979-1982, as determined pur-
7 suant to Section 2. The regulations shall set forth a trigger
8 level of sulfur dioxide emissions ten thousand tons lower than
9 the average of total statewide actual annual sulfur dioxide
10 emissions in the years 1979-1982. The regulations shall require
11 that if said trigger level is exceeded by the amount of annual
12 emissions in the most recent year for which data have been
13 reported pursuant to Section 3, then the Department shall, af-
14 ter notice and a public hearing, prepare a reasonable forecast
15 of what total statewide actual annual sulfur dioxide emissions
16 will be five years from that time. Such forecast shall set forth
17 analysis of the reasons why the trigger was exceeded and
18 whether the factors producing the exceedance are of a tempo-
19 rary or long-term nature. The Department shall make a de-
20 termination of whether the forecast demonstrates a reason-
21 able likelihood that the 4-year average of emissions will ex-
22 ceed, within 5 years, the average of emissions for the years
23 1979 through 1982. If the Department determines that the
24 forecast does demonstrate such a likelihood, the Department
25 shall adopt such further regulations as may be necessary to
26 maintain or reduce the 4-year average of sulfur dioxide emis-
27 sions, as calculated pursuant to Section 3, below the average
28 of sulfur dioxide emissions for the years 1979 through 1982.

1 SECTION 5. In the event that any four-year average of emis-
2 sions, as described in Section 3 of this Act, exceeds the limita-
3 tion set forth pursuant to Section 4(b) of this Act the Depart-

4 ment shall implement measures to achieve promptly, and to
5 maintain, compliance with the limitation.

1 SECTION 6. Nothing in this Act shall be interpreted to au-
2 thorize the Department to extend compliance schedules, issue
3 variances, apply a bubble concept, or relax emission limita-
4 tions or performance standards, if such extension, issuance, ap-
5 plication, or relaxation would be likely to result in:

- 6 (a) violation of any primary federal ambient air quality
7 standard or any state ambient air quality standard;
- 8 (b) creation of a public or private nuisance; or
- 9 (c) failure to make reasonable further progress in a non-
10 attainment area pursuant to the federal Clean Air Act,
11 as amended (42 USC 7501 *et seq.*)

1 SECTION 7. On or before December 31, 1987, the Depart-
2 ment shall determine whether any federal statute or program
3 exists that requires national sulfur dioxide emissions to be
4 reduced, by 1997, to a level that is 10 million tons per year
5 lower than the national sulfur dioxide emissions in 1980. If
6 the Department determines that no such federal statute or pro-
7 gram exists, the Department shall commence drafting regula-
8 tions calculated to reduce the average emission rate of all fa-
9 cilities in the state that burn fossil fuel and that have the
10 capacity to burn fuel at a rate greater than or equal to 100
11 million British thermal units of fuel input per hour. The reg-
12 ulations shall require that the average emission rate of all
13 such facilities in the state shall, by 1997, be less than or equal
14 to 1.2 pounds of sulfur dioxide released per million BTU of fuel
15 input. Said regulations shall be formally adopted by December
16 31, 1988. The Department shall commence and continue im-
17 plementation and enforcement of said regulations beginning
18 on January 1, 1989, unless a federal statute or program shall
19 have been adopted by that time which requires national sulfur
20 dioxide emissions to be reduced, by 1998, to a level that is 10
21 million tons per year lower than the national sulfur dioxide
22 emissions in 1980.

1 SECTION 8. If any section of this Act, or any part of any
2 section shall be declared invalid or unconstitutional, such
3 declaration shall not affect the validity or constitutionality of
4 the remaining portions thereof.