

26:2C-2 et seq.

April 10, 1969

LEGISLATIVE HISTORY OF R.S. 26:2C-2 et seq.
(Air Pollution - Clean Air Council)

COPY NO. 2

This act amends the Air Pollution Control Act of 1954, abolishing the Air Pollution Commission and sets up the Clean Air Council in the Department of Health.

L. 1967, Chapter 106 - S345

Feb. 14 - Introduced by Fernicola & 9 others.

Apr. 17 - Passed in Senate under emergency resolution, amended.

Apr. 27 - Passed in Assembly.

June 15 - Approved, Chapter 106.

No statement.

Amended during passage.

Governor's statement on signing attached.

This was in turn amended by:

L. 1967, Chapter 286 - A956

This bill was designed to correct miscellaneous errors in the statutory law. The section pertaining to the Clean Air Council is attached.

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SENATE, No. 345

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 14, 1967

By Senators FERNICOLA, GUARINI, MUSTO, KELLY,
GOLDMAN, FELDMAN, KEEGAN, KIEFER and O'CONNOR

Referred to Committee on Air and Water Pollution
and Public Health

AN Act relating to the control and suspension of air pollution, amending the title of "An act relating to the control and suspension of air pollution, creating an Air Pollution Control Commission in the State Department of Health and prescribing its functions, powers and duties and providing for the appointment of county air pollution associations," approved September 16, 1954 (P. L. 1954, c. 212), so that the same shall read "An act relating to the control and suspension of air pollution, creating a Clean Air Council in the State Department of Health and prescribing its functions, powers and duties," amending, supplementing and repealing portions of said act, and amending sections 1 and 2 of chapter 16 of the laws of 1966.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

3 1. The title of chapter 212 of the laws of 1954 is amended to
4 read as follows: An act relating to the control and suspension of
5 air pollution, creating a Clean Air Council in the State Department
6 of Health and prescribing its functions, powers and duties.

7 2. The Air Pollution Control Commission is hereby abolished.
8 All of the functions, powers and duties of the Air Pollution Con-
9 trol Commission in the Department of Health are hereby trans-
10 ferred to the Department of Health.

11 3. (a) There is hereby created in the State Department of Health
12 a Clean Air Council, which shall consist of ***[15]* *17*** members, 3
13 of whom shall be the Commissioner of Labor and Industry or a
14 member of the Department of Labor and Industry designated by
15 him, the Commissioner of Community Affairs or a member of the
16 Department of Community Affairs designated by him, and the
17 Secretary of Agriculture or a member of the Department of Agri-

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

1 culture designated by him, who shall serve ex officio, ***[4]*** *6* citi-
 2 zens of the State representing the general public *at least one of
 3 whom shall be a medical doctor licensed to practice in this State*
 4 and 8 members to be appointed from persons to be nominated by
 4A the organizations hereinafter enumerated, by the Governor.

5 (b) Within 30 days following the effective date hereof and
 6 thereafter as required, at least 1 month prior to the expiration
 7 of the term of the member chosen from nominees of each organi-
 8 zation hereafter enumerated, each such organization shall submit
 9 to the Governor a list of 3 recommended nominees for membership
 10 on the council from which list the Governor shall appoint one.

11 If any organization does not submit a list of recommended
 12 nominees at any time required by this act, the Governor may
 13 appoint a member of his choice.

14 The organizations which shall be entitled to submit recommended
 15 nominees are: New Jersey Health Officers Association, New Jersey
 16 State Chamber of Commerce, New Jersey Society of Professional
 17 Engineers, Inc., New Jersey Manufacturers Association, New
 18 Jersey Section of the American Industrial Hygiene Association,
 19 New Jersey State League of Municipalities, the New Jersey Free-
 20 holders' Association and the New Jersey State AFL-CIO.

21 (c) Of the 12 members first to be appointed, 3 shall be appointed
 22 for terms of 1 year, 3 for terms of 2 years, 3 for terms of 3 years
 23 and 3 for terms of 4 years. Thereafter, all appointments shall
 24 be made for terms of 4 years. All appointed members shall serve
 25 after the expiration of their terms until their respective successors
 26 are appointed and shall qualify, and any vacancy occurring in the
 27 appointed membership of the council by expiration of term or
 28 otherwise, shall be filled in the same manner as the original ap-
 29 pointment for the unexpired term only, notwithstanding that the
 30 previous incumbent may have held over and continued in office
 31 as aforesaid. The Governor may remove any appointed member
 32 of the council for cause after a public hearing.

33 (d) Members of the council shall serve without compensation
 34 but shall be reimbursed for expenses actually incurred in attend-
 35 ing meetings of the council and in the performance of their duties
 36 as members thereof.

37 (e) The council shall elect annually a chairman and vice-chair-
 38 man from its own membership.

39 4. The Clean Air Council shall:

40 (a) Request from the commissioner information concerning the
 41 Air Pollution Control Program;

42 (b) Consider any matter relating to the preservation and im-

1 improvement of the Air Pollution Control Program and advise the
1A commissioner thereof;

1B (c) From time to time submit to the commissioner any recom-
2 mendations which it deems necessary for the proper conduct and
3 improvement of the Air Pollution Control Program;

4 (d) Study the Air Pollution Control Program and make its
5 recommendations thereon to the commissioner;

6 (e) Study the codes, rules and regulations promulgated by the
7 department in regard to air pollution control and make its recom-
8 mendations for their improvement to the commissioner;

9 (f) Study and investigate the state of the art and the technical
10 capabilities and limitations of air pollution control and report their
11 findings and recommendations thereon to the commissioner;

12 (g) Study and investigate the need for programs for the long-
13 range technical support of the Air Pollution Control Program and
14 report their findings and recommendations thereon to the com-
15 missioner; and

16 (h) Hold public hearings at least once a year in regard to exist-
17 ing air pollution control, statutes, codes, rules and regulations and
18 upon the state of the art and technical capabilities and limitations
19 in air pollution control and report its recommendations thereon
20 to the commissioner.

21 5. Section 2 of chapter 212 of the laws of 1954 is amended to
22 read as follows:

23 2. The following words shall have the following meanings:

24 ["Commission"] "Council" means the [Air Pollution Control
25 Commission] *Clean Air Council* created under this act.

26 "Department" means the State Department of Health.

27 "Air pollution" as used in this act shall mean the presence in
28 the outdoor atmosphere of [substances in quantities which are
29 injurious to human, plant or animal life or to property or unrea-
30 sonably interfere with the comfortable enjoyment of life and
31 property] *one or more *air* contaminants in such quantities and
32 duration as are, or tend to be, injurious to human health or welfare,
33 *animal or* plant *[or animal]* life or property, or *would* un-
34 reasonably interfere with the enjoyment of life or property through-
35 out the State and in such territories of the State as shall be affected
36 thereby and excludes all aspects of employer-employee relation-
37 ship as to health and safety hazards.*

38 "Commissioner" means the Commissioner of Health in the State
39 Department of Health.

40 "Control apparatus" means any device which prevents or con-
41 trols the emission of any air contaminant.

1 *“Equipment” means any device capable of causing the emission*
 1A *of an air contaminant into the open air, and any stack, conduit,*
 1B *flue, duct, vent or similar device connected or attached to, or serving*
 2 *the equipment. This shall include equipment in which the pre-*
 3 *ponderance of the air contaminant emitted is caused by the manu-*
 4 *facturing process.*

4A **“ ‘Person’ means and shall include corporations, companies, as-*
 4B *sociations, societies, firms, partnerships and joint stock companies*
 4C *as well as individuals, and shall also include all political subdivi-*
 4D *sions of this State or any agencies or instrumentalities thereof.”**

5 6. Section 8 of chapter 212 of the laws of 1954 is amended to
 6 read as follows:

7 8. The **[commission]** *department* shall have power to formulate
 8 and promulgate, amend and repeal codes and rules and regulations
 9 *preventing, controlling and prohibiting air pollution throughout*
 10 *the State or in such territories of the State as shall be affected*
 11 *thereby; provided, however, that no such code, rule or regulation*
 12 *and no such amendment or repeal shall be adopted except after*
 13 *public hearing to be held after 30 days prior notice thereof by public*
 14 *advertisement of the date, time and place of such hearing, at which*
 15 *opportunity to be heard by the [commission] department with*
 16 *respect thereto shall be given to the public; and provided, further,*
 17 *that no such code, rule or regulation and no such amendment or*
 18 *repeal shall be or become effective until 60 days after the adoption*
 19 *thereof as aforesaid. Any person heard at such public hearing*
 20 *shall be given written notice of the determination of the [com-*
 21 *mission] department.*

22 **[The public hearing required by this act to be held before the**
 23 *commission shall be held before not less than 3 members of the*
 24 *commission designated by the chairman.]*

25 *All codes, rules and regulations heretofore adopted by the Air*
 26 *Pollution Control Commission shall continue in full force and effect*
 27 *subject to the power of the department to amend and repeal such*
 28 *codes, rules and regulations as provided by this act.*

29 7. Section 9 of chapter 212 of the laws of 1954 is amended to
 30 read as follows:

31 9. The department shall control air pollution in accordance with
 32 the provisions of any applicable code, rule or regulation promul-
 33 gated by the **[commission]** *department* and for this purpose shall
 34 have power to—

35 (a) Conduct and supervise research programs for the purpose
 36 of determining the causes, effects and hazards of air pollution;

37 (b) Conduct and supervise State-wide programs of air pollution

1 control education including the preparation and distribution of
1A information relating to air pollution control;

1B (c) Require the registration of persons engaged in operations
1C which may result in air pollution and the filing of reports by them
1D containing information relating to location, size of outlet, height of
1E outlet, rate and period of emission and composition of effluent, and
1F such other information as the department shall prescribe to be filed
2 relative to air pollution, all in accordance with applicable codes,
3 rules or regulations established by the [Air Pollution Control Com-
4 mission] *department*. Registration reports filed with the department
5 shall be privileged and not admissible in evidence in any court;

6 (d) Enter and inspect any building or place, except private
7 residences, for the purpose of investigating an actual or suspected
8 source of air pollution and ascertaining compliance or noncom-
9 pliance with any code, rules and regulations of the [commission]
10 *department*. Any information relating to secret processes or
11 methods of manufacture or production obtained in the course of
12 such inspection, investigation or determination, shall be kept con-
13 fidential and shall not be admissible in evidence in any court or in
14 any other proceeding except before the department as herein
15 defined. If samples are taken for analysis, a duplicate of the
16 analytical report shall be furnished promptly to the person sus-
17 pected of causing air pollution;

18 (e) Receive or initiate complaints of air pollution, hold hear-
19 ings in connection with air pollution and institute legal proceedngs
20 for the prevention of air pollution and for the recovery of penalties,
21 in accordance with this act;

22 (f) With the approval of the Governor, co-operate with, and
23 receive money from, the Federal Government, the State Govern-
24 ment, or any county or municipal government or from private
25 sources for the study and control of air pollution.

26 8. Section 14 of chapter 212 of the laws of 1954 is amended to
27 read as follows:

28 14. Whenever the department has cause to believe that any
29 person is violating any code, rule or regulation promulgated by
30 the [commission] *department*, the department shall cause a prompt
31 investigation to be made in connection therewith.

32 If upon inspection the department discovers a condition which
33 is in violation of the provisions of this act or any code, rule or
34 regulation promulgated pursuant thereto, it shall be authorized
35 to order such violation to cease and to take such steps necessary
36 to enforce such an order. The said order shall state the items
37 which are in violation and shall provide a reasonable specified time
38 within which the violation must cease.

1 In any case where no code, rule or regulation has been promul-
 1A gated which sets specific limits for emissions to the atmosphere
 1B of the type discovered and alleged, no order to cease such emis-
 1C sions shall be issued until the holding of a preliminary hearing
 1D thereon which shall be held upon not less than 15 days' notice by
 1E the department to all interested persons.

1F The person responsible shall make the corrections necessary
 2 to comply with the requirements of this act or code, rule or regu-
 3 lation promulgated pursuant thereto within the time specified in
 4 the order.

5 Nothing herein shall be deemed to prevent the department from
 6 prosecuting any violation of this act or any code, rule or regula-
 7 tion promulgated pursuant thereto notwithstanding that such
 8 violation is corrected in accordance with its order.

9 9. Section 20 of chapter 212 of the laws of 1954 is amended to
 10 read as follows:

11 20. Review of any final decision or action by the department
 12 **[or by the commission]** shall be by procedure in lieu of preroga-
 13 tive writs. Review of the validity of any code, rule or regulation
 14 promulgated by the **[commission]** *department* shall likewise be
 15 by procedure in lieu of prerogative writs.

16 10. Section 22 of chapter 212 of the laws of 1954 is amended to
 17 read as follows:

18 22. No ordinances ***[or regulations]*** of any governing body of a
 19 municipality or county or board of health **[not inconsistent with]**
 20 *more* ***[restrictive]*** **stringent** than this act or any code, rules or
 21 regulations promulgated pursuant thereto shall be superseded by
 22 this act. Nothing in this act or in any code, rules or regulations
 23 promulgated pursuant thereto shall preclude the right of any gov-
 24 erning body of a municipality or county or board of health*, *subject*
 25 *to the approval of the department** to adopt ordinances or regula-
 26 tions **[not inconsistent]** *more* ***[restrictive]*** **stringent** than
 27 this act or any code, rules or regulations promulgated pursuant
 27A thereto.

28 11. Section 1 of chapter 16 of the laws of 1966 is amended to
 29 read as follows:

30 1. The **[Air Pollution Control Commission]** *department*, after
 31 consultation with the Director of the Division of Motor Vehicles,
 32 shall have the power to formulate and promulgate, amend and
 33 repeal codes, rules and regulations establishing standards and re-
 34 quirements for the control of air contaminants from motor vehicles.

35 12. Section 2 of chapter 16 of the laws of 1966 is amended to
 36 read as follows:

1 2. Any code, rule or regulation establishing standards and re-
1A quirements for the control of air contaminants from motor vehicles
1B shall be applicable to such classification of motor vehicles as the
1C **[Air Pollution Control Commission]** department shall determine
1D to be necessary to carry out the purpose of this act and shall
1E apply to such motor vehicles not earlier than 180 days following
1F the date of adoption.

1G 13. (a) No person shall construct, install or alter any equip-
2 ment or control apparatus, in other than a one or 2-family dwelling
3 **or a dwelling of 6 or less family units one of which is owner-oc-*
4 *cupied**, until an application including plans and specifications, has
5 been filed with the department and an installation or alteration per-
6 mit issued by the department, in accordance with any codes, rules
7 and regulations of the department except that subject to any such
8 codes, rules and regulations the department may dispense with
8A the filing of applications, plans and specifications. ***Information*
8B *relating to secret processes or methods of manufacture or produc-*
8C *tion is exempted from the plans and specifications and other per-*
8D *tinent information to which the department is entitled under this*
8E *section.***

9 (b) No person shall use or cause to be used for any such new or
10 altered equipment or control apparatus for which an installation
11 or alteration permit is required or issued until an operating cer-
12 tificate has been issued by the department.

13 (c) No operating certificate or renewal thereof, required by
14 this act, shall be issued by the department unless the applicant
15 shows to the satisfaction of the department that the equipment is
16 designed to operate without causing a violation of any provision
17 of this act or of any codes, rules and regulations promulgated
18 thereunder and that*, *except in the case of a renewal certificate,**
19 the equipment incorporates advances in the art of air pollution
20 control developed for the kind and amount of air contaminant
20A emitted by the applicant's equipment.

21 (1) Before an operating certificate or any renewal thereof is
22 issued, the department may require the applicant to conduct such
23 tests as are necessary in the opinion of the department to determine
24 the kind or amount of the air contaminant emitted from the equip-
25 ment or whether the equipment or fuel or the operation of the
26 equipment is in violation of any of the provisions of this act or
27 of any codes, rules and regulations promulgated thereunder. Such
28 tests shall be made at the expense of the applicant and shall be
29 conducted in a manner approved by the department and the test
30 results shall be reviewed and professionally certified.

1A (2) An operating certificate or any renewal thereof shall be
1B valid for a period of ***[3]* *5*** years from the date of issuance,
1C unless sooner revoked by order of the department, and may be
1D renewed upon application to the department.

1E (3) Upon receipt of an application for the issuance of an operat-
1F ing certificate or any renewal thereof, the department, in its
1G discretion, may issue a temporary operating certificate valid for
1H a period not to exceed 90 days.

1I 14. (a) There is hereby established a Clean Air Scholarship
1J Intern Program.

1K (b) The commissioner may provide for the payment of
1L room, board, tuition and fees for eligible persons to attend
1M any accredited college or university authorized by the com-
1N missioner as a regular student to receive an engineering
2 degree satisfactory to the commissioner until the eligible per-
3 son satisfactorily completes 4 scholastic years.

4 (c) To be eligible for the Clean Air Scholarship Intern Program
5 a person must:

6 (1) be a citizen of the United States and the State of New
7 Jersey;

8 (2) be a high school graduate or have an equivalent education;

9 (3) have been accepted for admission to the accredited college
10 or university authorized by the commissioner as a regular student
11 and accepted in said college or university to pursue a course of
12 instruction satisfactory to the commissioner;

13 (4) contract, with the consent of his parent or legal guardian if
14 he is a minor, with the commissioner or his designated representa-
15 tive, to serve with the Department of Health for a period of 3 years
16 following graduation and further, to serve with the Department
17 of Health during the regular periods of summer vacation except
18 for such vacation periods as the commissioner shall establish by
19 regulation and provided further that the department shall not be
20 liable to pay wages to said student during said vacation periods.

21 (d) The appointments made by the commissioner hereunder
22 shall be subject to available appropriations and shall be awarded
23 on a competitive basis.

24 (e) The Scholarship Intern Program shall be administered by
25 the commisioner under such regulations as the commissioner
26 shall prescribe.

27 **15. The commissioner, subject to available appropriations and*
28 *grants from other sources, may provide within the Department of*
29 *Health for a program of graduate study for eligible persons to*
30 *attend any accredited graduate program at a college or univer-*

1 *sity in order to further the training of personnel for the purposes*
2 *of administering this act. Said graduate program shall be admin-*
3 *istered by the commissioner under such regulations as the com-*
4 *missioner shall prescribe.**

5 ***[15.]*** *16.* Sections 3, 4, 5, 6, 7, 11, 12 and 13 of chapter 212
6 of the laws of 1954 as amended and supplemented are hereby
7 repealed.

8 ***[16.]*** *17.* This act shall take effect immediately.

FROM: Office of the Governor

FOR RELEASE: June 15, 1967

STATEMENT BY GOVERNOR RICHARD J. HUGHES
ON SIGNING THE AIR AND WATER POLLUTION BILLS

"The signing of these control measures places this State in the forefront of the fight for clean air and water. These meaningful bills constitute a recognition by government that vigorous and effective means can be brought to bear in a real effort to assure clean air and water for the health and recreation of our citizens.

"Senate Bill No. 345 creates a Clean Air Council which will act in an advisory capacity to the Department of Health, which is charged under this measure, with the responsibility for the enforcement of the air pollution law, codes and regulations. To insure, however, that local municipalities which have gone ahead with effective pollution control programs will be guaranteed their continued authority to do so, provision is made for the right of municipalities to promulgate codes, rules and regulations which may be more stringent than those of the State, in order to meet peculiar local problems. Another significant contribution of Senate Bill No. 345 is the establishment of a permit and operation certificate system of prior approval by the State for the construction or installation of equipment which may potentially pollute the atmosphere. Of great import, too, is the provision in Senate Bill No. 345 for a Clean Air Scholarship Program in the Department of Health. This will insure that the State will have the advantage of having available trained personnel for years ahead in the quest for clean air.

"Enforcement of the State air pollution law, codes and regulations is enhanced by Senate Bill No. 180 which increases the penalties for violation of the act or the codes promulgated thereunder. However, since our goal in this area is not only of a penal nature, but one of prevention as well, provision is made in Senate Bill No. 180 for rebate of up to 90 per cent of penalties paid, where the violator has met the pollution problem by the installation of suitable control devices within the period of one year.

"While air pollution is of major concern, we have also taken steps in the legislation approved today to guarantee that similar effective control will be available to guard against pollution of our streams, lakes and rivers. Assembly

Bill No. 677 creates a Clean Water Council which will act in an advisory capacity to the Department of Health in conjunction with the Department's enforcement of the water pollution law, codes and regulations. In addition, Assembly Bill No. 677 broadens the State's program of grants and loans to municipalities for the planning of sewerage facilities and treatment facilities. Moreover, a construction grant program is established by this measure to enable the Department of Health to match federal funds made available under the Federal Pollution Control Act for the aid of local, county and regional sewerage construction facilities.

"Assembly Bill No. 228 provides for emergency air pollution alerts and grants power to the State Commissioner of Health to determine that an air pollution emergency may exist within the State or in a particular locality. In turn, I, as Governor, am authorized upon written recommendations of the Commissioner of Health to take such steps as are necessary to eliminate the emergency condition. Failure by any person to comply with such an order subjects such person to penalties under the provisions of Assembly Bill No. 228.

"In line with our policy to prevent increased air and water pollution and to reduce present levels of pollution, Senate Bill No. 160 provides for tax exemptions for air and water pollution devices when such devices are approved by the Department of Health.

"All of us must recognize, of course, that pollution does not confine itself to State boundaries. Therefore, the enactment of Senate Bill No. 443, which joins New Jersey to the Mid-Atlantic States Air Pollution Control Compact and also provides for representation of the States of New York, Connecticut, Pennsylvania, Delaware and the Federal government, is a most significant step in the finding of approaches to combat pollution on a federal-state level. I am pleased that the ~~entire New Jersey Congressional delegation will sponsor~~ same in the United States Congress.

"These measures, which have already received nation-wide and international interest, are vivid examples of the extraordinary performance of this latest session of the State Legislature. The perils of air and water pollution are so vast and so ominous that we must never relax in our efforts to assure to our

citizens two basic God-given rights, which have too often been overlooked in our modern age -- clean air and clean water. The assurances of these rights to present and future generations of New Jerseyans is a goal which will not be easily realized. However, I think this day will go down in the history of our State as the day that New Jersey took a bold and very large step toward reaching that goal and I want to commend the Legislature for their action."

Chapter 2C. AIR POLLUTION CONTROL.

Section	Section
26:2C-2. Definitions.	26:2C-11 to
26:2C-3. Commission; members; nominees. REPEALED.	26:2C-13. REPEALED.
26:2C-3.1. Air pollution control commission abolished; transfer.	26:2C-14. Investigation; order; preliminary hearing.
26:2C-3.2. Clean air council; members; terms; appointment.	26:2C-19. Action for injunctive relief; penalty; compromise.
26:2C-3.3. Duties of council.	26:2C-20. Review.
26:2C-4 to	26:2C-22. Ordinances unaffected.
26:2C-7. REPEALED.	26:2C-24. Clean air scholarship intern program.
26:2C-8. Codes, rules and regulations; hearing.	26:2C-25. Program of graduate studies.
26:2C-8.1. Rules and regulations for control of air contaminants from motor vehicles.	26:2C-26. Short title.
26:2C-8.2. Application of rules and regulations.	26:2C-27. Legislative findings and declaration.
26:2C-8.3. Standards and requirements for control with devices.	26:2C-28. "Area" defined.
26:2C-8.4. Standards and requirements for control without devices.	26:2C-29. Determination by commissioner; delivery to governor; proclamation; powers of governor.
26:2C-8.5. Formulation and promulgation of rules and regulations.	26:2C-30. Maximum publicity.
26:2C-9. Powers.	26:2C-31. Further gubernatorial orders.
26:2C-9.2. Application before installation of equipment; operating certificate required.	26:2C-32. Enforcement of orders.
	26:2C-33. Acts declared high misdemeanors.
	26:2C-34. Causes of action barred.
	26:2C-35. Public hearing; notice; report of findings and recommendations.
	26:2C-36. Proposed stand-by orders; arrangements for enforcement.

26:2C-2. Definitions. The following words shall have the following meanings:

"Council" means the clean air council created under this act [chapter].

"Department" means the state department of health.

"Air pollution" as used in this act shall mean the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as are, or tend to be, injurious to human health or welfare, animal or plant life or property, or would unreasonably interfere with the enjoyment of life or property throughout the state and in such territories of the state as shall be affected thereby and excludes all aspects of employer-employee relationship as to health and safety hazards.

"Commissioner" means the commissioner of health in the state department of health.

"Control apparatus" means any device which prevents or controls the emission of any air contaminant.

"Equipment" means any device capable of causing the emission of an air contaminant into the open air, and any stack, conduit, flue, duct, vent or similar device connected or attached to, or serving the equipment. This shall include equipment in which the preponderance of the air contaminant emitted is caused by the manufacturing process.

"Persons" means and shall include corporations, companies, associations, societies, firms, partnerships and joint stock companies as well as individuals, and shall also include all political subdivisions of this state or any agencies or instrumentalities thereof.

Source. L. 1967, c. 106, §5. Approved June 15, 1967, effective immediately.

Note. This section was enacted by L. 1954, c. 212, §2, approved Sept. 16, 1954, effective immediately. The title of L. 1954, c. 212, was amended by L. 1967, c. 106, §1 to read as follows:

An act relating to the control and suspension of air pollution, creating a Clean Air Council in the State Department of Health and prescribing its functions, powers and duties.

26:2C-3. Commission; members; nominees. REPEALED.

Source. L. 1967, c. 106, §16. Approved June 15, 1967, effective immediately.

Note. This section was enacted by L. 1954, c. 212, §3, approved Sept. 16, 1954, effective immediately.

26:2C-3.1. Air pollution control commission abolished; transfer. The air pollution control commission is hereby abolished. All of the functions, powers and duties of the air pollution control commission in the department of health are hereby transferred to the department of health.

Source. L. 1967, c. 106, §2. Approved June 15, 1967, effective immediately.

26:2C-3.2. Clean air council; members; terms; appointment. (a) There is hereby created in the state department of health a clean air council, which shall consist of 17 members, 3 of whom shall be the commissioner of labor and industry or a member of the department of labor and industry designated by him, the commissioner of community affairs or a member of the department of community affairs designated by him, and the secretary of agriculture or a member of the department of agriculture designated by him, who shall serve ex officio, 6 citizens of the state representing the general public at least one of whom shall be a medical doctor licensed to prac-

tice in this state and 8 members to be appointed from persons to be nominated by the organizations hereinafter enumerated, by the governor.

(b) Within 30 days following the effective date hereof and thereafter as required, at least 1 month prior to the expiration of the term of the member chosen from nominees of each organization hereafter enumerated, each such organization shall submit to the governor a list of 3 recommended nominees for membership on the council from which list the governor shall appoint one.

If any organization does not submit a list of recommended nominees at any time required by this act, the governor may appoint a member of his choice.

The organizations which shall be entitled to submit recommended nominees are: New Jersey Health Officers Association, New Jersey State Chamber of Commerce, New Jersey Society of Professional Engineers, Inc., New Jersey Manufacturers Association, New Jersey Section of the American Industrial Hygiene Association, New Jersey State League of Municipalities, the New Jersey Freeholders' Association and the New Jersey State AFL-CIO.

(c) Of the 14 members first to be appointed, 4 shall be appointed for terms of 1 year, 4 for terms of 2 years, 3 for terms of 3 years and 3 for terms of 4 years. Thereafter, all appointments shall be made for terms of 4 years. All appointed members shall serve after the expiration of their terms until their respective successors are appointed and shall qualify, and any vacancy occurring in the appointed membership of the council by expiration of term or otherwise, shall be filled in the same manner as the original appointment for the unexpired term only, notwithstanding that the previous incumbent may have held over and continued in office as aforesaid. The Governor may remove any appointed member of the council for cause after a public hearing.

(d) Members of the council shall serve without compensation but shall be reimbursed for expenses actually incurred in attending meetings of the council and in the performance of their duties as members thereof.

(e) The council shall elect annually a chairman and vice-chairman from its own membership.

Source. L. 1967, c. 286, §5. Approved Jan. 23, 1968, effective immediately.

Note. This section was enacted by L. 1967, c. 106, §3, approved June 15, 1967, effective immediately.

26:2C-3.3. Duties of council. The clean air council shall:

(a) Request from the commissioner information concerning the air pollution control program;

(b) Consider any matter relating to the preservation and improvement of the air pollution

control program and advise the commissioner thereof;

(c) From time to time submit to the commissioner any recommendations which it deems necessary for the proper conduct and improvement of the air pollution control program;

(d) Study the air pollution control program and make its recommendations thereon to the commissioner;

(e) Study the codes, rules and regulations promulgated by the department in regard to air pollution control and make its recommendations for their improvement to the commissioner;

(f) Study and investigate the state of the art and the technical capabilities and limitations of air pollution control and report their findings and recommendations thereon to the commissioner;

(g) Study and investigate the need for programs for the longrange technical support of the air pollution control program and report their findings and recommendations thereon to the commissioner; and

(h) Hold public hearings at least once a year in regard to existing air pollution control, statutes, codes, rules and regulations and upon the state of the art and technical capabilities and limitations in air pollution control and report its recommendations thereon to the commissioner.

Source. L. 1967, c. 106, §4. Approved June 15, 1967, effective immediately.

26:2C-4

to

26:2C-7. REPEALED.

Source. L. 1967, c. 106, §16. Approved June 15, 1967, effective immediately.

Note. These sections were enacted by L. 1954, c. 212, §§4-7, approved Sept. 16, 1954, effective immediately. R. S. Cum. Supp. 26:2C-6 had been amended by L. 1962, c. 215, §1, approved Jan. 8, 1963, effective immediately.

26:2C-8. Codes, rules and regulations; hearing. The department shall have power to formulate and promulgate, amend and repeal codes and rules and regulations preventing, controlling and prohibiting air pollution throughout the state or in such territories of the state as shall be affected thereby; provided, however, that no such code, rule or regulation and no such amendment or repeal shall be adopted except after public hearing to be held after 30 days prior notice thereof by public advertisement of the date, time and place of such hearing, at which opportunity to be heard by the department with respect thereto shall be given to the public; and provided, further, that no such code, rule or regulation and no such amendment or repeal shall be or become effective until 60 days after the adoption thereof as aforesaid. Any person heard at such public hearing shall be given written notice of the determination of the department.

All codes, rules and regulations heretofore adopted by the air pollution control commission