

# Smoke and Air Pollution

NEW YORK • NEW JERSEY

*Supplemental Report by the*

INTERSTATE SANITATION COMMISSION  
NEW YORK • NEW JERSEY • CONNECTICUT

*Proposed*

*Interstate Air Pollution Control Legislation*

January 1959

# Smoke and Air Pollution

**NEW YORK • NEW JERSEY**

A Report of the Interstate Sanitation Commission  
New York — New Jersey — Connecticut  
on Proposed Smoke and Air Pollution Control Legislation  
for the New York Metropolitan Area

January 1959

To His Excellency, Robert B. Meyner  
His Excellency, Nelson A. Rockefeller  
and the Legislatures of the States of  
New York and New Jersey

Sirs:

The Interstate Sanitation Commission is privileged to submit the report of its proposed legislation for the abatement and control of air pollution in this interstate metropolitan area.

This completes the study of smoke and air pollution that was conducted in conformity with the authorization and direction of the Legislatures of the States of New York and New Jersey.

Respectfully submitted,

INTERSTATE SANITATION COMMISSION

William C. Cope, Chairman

January 1, 1959

**INTERSTATE  
SANITATION  
COMMISSION**

**NEW JERSEY**

WILLIAM C. COPE  
*Chairman*

DANIEL BERGSMA, M.D.  
HARRY N. LENDALL  
ROSCOE P. McCLAVE  
LEON A. WATSON

**NEW YORK**

HUGH W. ROBERTSON  
*Vice-Chairman*

HERMAN E. HILLEBOE, M.D.  
SAMUEL J. LEFRAK  
MURRAY SCHWARTZ  
MOSES SPATT

**CONNECTICUT**

DANIEL F. B. HICKEY  
*Vice-Chairman*

JOHN J. BRACKEN  
STANLEY H. OSBORN, M.D.  
J. LOUIS RADEL  
WILLIAM S. WISE

THOMAS R. GLENN, JR.  
*Director & Chief Engineer*

WALTER S. COOPER  
*Special Counsel*

**FOREWORD**

The Interstate Sanitation Commission made the following recommendations in their report of February 1, 1958 on the study of the interstate aspects of air pollution in the New York-New Jersey Metropolitan Area.

1. That an interstate instrumentality, employing the administrative practices followed by the Interstate Sanitation Commission in the abatement of interstate water pollution, be established to deal with the problems of interstate air pollution.
2. That action be taken to enable the Interstate Sanitation Commission to continue until February 1, 1959, that phase of the study which calls for the drafting of proposed legislation, in order to afford opportunity to interested agencies to express their views on the form which legislation to control interstate air pollution should take.

This supplemental report concludes the study of smoke and air pollution in the States of New York and New Jersey conducted by the Interstate Sanitation Commission. It presents the Commission's recommendations for legislation to abate and control interstate air pollution in this metropolitan area.

This material completes the report submitted by the Commission to the State Legislatures of New York and New Jersey on February 1, 1958.

**INTERSTATE  
AIR POLLUTION CONTROL COMPACT**

**ARTICLE I**

WHEREAS the tremendous growth of population and industry in the urban regions of the Eastern States and particularly in the metropolitan areas has resulted in substantial increases in the production of air pollution and air pollution sources, and increasingly serious pollution of the air in such areas, and

WHEREAS air pollution does not respect political boundaries, and persons far removed from its sources and having no responsibility for nor control over its creation endure discomforts and inconvenience, experience property damage and economic loss and are denied the sense of well being that is a recognized criterion of good health; and

WHEREAS it is the policy of the party states to maintain a reasonable degree of purity of the air resources of those states which shall be consistent with the public health, welfare and public enjoyment thereof, the propagation and protection of flora and fauna and the protection of the health, welfare, physical property and other resources of the citizens of the party states, and

WHEREAS while the control and abatement of air pollution at its sources is the primary obligation of the states, counties or municipalities in which it originates, the problem of interstate air pollution more readily can be solved by governmental agencies acting in unison, and

WHEREAS the control of future pollution and the abatement of existing pollution of the air in the party states is of prime importance to the people living in and industries located in such areas, and can best be accomplished through the cooperation of the party states by and through a common instrumentality;

NOW, THEREFORE, the participating states do agree and are bound as follows:

**ARTICLE II**

This agreement shall enter into full force and effect between the State of New Jersey and the State of New York when enacted into law by the respective legislatures thereof and consented to by the State of Connecticut, and as to all three states when enacted into law by the legislature thereof.

**ARTICLE III**

(a) Each of the party states pledges each to the other faithful cooperation in the control of air pollution in the area hereinafter defined as the "INTERSTATE AIR POLLUTION CONTROL DISTRICT" and consistent with such object, to enact adequate legislation which will enable each of the party states to maintain a reasonable degree of purity of the air within and adjacent to such District, to abate and eliminate such air pollution as hereinafter defined, and to maintain a reasonable degree of purity of the air resources of the District as shall be consistent with the public health, welfare and public enjoyment thereof, the propagation of flora and fauna, and the protection of the health, welfare, physical property and other resources of the citizens thereof.

(b) There is hereby created a metropolitan air pollution control district to be known as "INTERSTATE AIR POLLUTION CONTROL DISTRICT" (hereinafter referred to as the District) which shall embrace the territory described as follows:

(1) In the State of New Jersey the counties of Bergen, Essex, Hudson, Middlesex, Passaic and Union, and any waters within or constituting the boundaries thereof;

(2) In the State of New York, the counties of Bronx, Kings, New York, Queens, Richmond, Westchester, Nassau and Suffolk, and any waters within or constituting the boundaries thereof;

(3) Such parts of the State of Connecticut as may be designated by that state upon joinder in this agreement;

(4) Such other and additional counties, or parts thereof, as from time to time may be added thereto by the legislature of a state party to this agreement within which such county or part thereof is situate, upon the recommendation of the Interstate Sanitation Commission acting as the Interstate Air Pollution Control Commission as provided herein.

(c) The powers, duties, limitations and responsibilities created by this Compact shall be exercised by the Commissioners, representing the states party to this agreement, on the Interstate Sanitation Commission, created by Chapter 4, Laws of New York, 1936, Revised Statutes of New Jersey, Title 32, Chapter 18, and Chapter 122 (a) Sec. 372 (f) to 383 (f) 1941 Supplement to the General Statutes of the State of Connecticut, as amended, and as approved by the Congress of the United States by Public Resolution No. 62, 74th Congress.

#### ARTICLE IV

As used in this Compact:

(a) "Commission" shall mean the members of the Interstate Sanitation Commission representing the states party to this agreement.

(b) "District" means the INTERSTATE AIR POLLUTION CONTROL DISTRICT created by Subdivision (b) of ARTICLE III hereof.

(c) "Person" means any individual, firm, public or private corporation, association, partnership, company, organization, society, trust, estate, business, state, county, city, municipality, or political subdivision thereof, any agency, board, department or bureau of a state, city, municipality or political subdivision thereof, the United States, or any other state of the United States and any foreign country, government or governmental agency, or national thereof owning or possessing property within the District or any other legal entity whatsoever which is recognized as the subject of rights and duties.

(d) "Air pollution" means the presence in the outdoor atmosphere of substances, or one or more air contaminants, in quantity, concentration or duration as to cause unreasonable discomfort to the inhabitants of any portion or portions of the District thereof as shall be affected thereby, or which in any of these areas are injurious to public health, or to human, plant or animal life or to property, or which unreasonably interfere with the comfortable enjoyment of life and property.

(e) "Air contaminants" means solids, liquids, gases, including but not limited to dust, fumes, mist, odors, smoke, vapor, pollen, charred paper, carbon, noxious acids, particulate matter, burning embers, sparks, cinders, soot, including their radioactive fractions or counterparts, or any combination or combinations thereof.

(f) "Air contamination source" means any source, at, from or by reason of which there is emitted into the atmosphere any air contaminant, regardless of who the person may be who owns or operates the building, premises or other property, in, at or on which such source is located or the facility, equipment or other property by which the emission is caused or from which the emission comes; this term includes but is not limited to all types of commercial and industrial plants and buildings and other structures of all types, automobiles, trucks, tractors, buses and other motor vehicles, garages, vending and service locations and stations; railroad locomotives; ships, boats and other waterborne craft, portable fuel burning equipment; incinerators of all types, indoor and outdoor; refuse dumps and piles.

(g) "State party to this agreement" means a state which is a signatory to this Compact.

#### ARTICLE V

In furtherance of the purposes of this Compact, and as the instrumentality of the states party to this agreement for executing the legislative intent herein expressed, the Commission shall have power to:

(a) Appoint, and at its pleasure, remove or discharge such officers and legal, technical, clerical, expert and other assistants as may be required to carry the purposes of this Compact into effect, and shall fix and determine their duties, qualifications and compensation.

(b) Encourage and conduct necessary studies, investigations and research relating to air pollution and its causes, prevention, control and abatement.

- (c) Collect and disseminate information relating to air pollution, its prevention and control.
- (d) Advise, consult and cooperate with other agencies, political subdivisions, other states, the United States government or any agency thereof, and with affected groups, in any of the fields of its interest.
- (e) Develop a comprehensive program for the prevention and control of pollution of the air within the District as the same, from time to time, may be constituted, and make recommendations to the states party to this agreement.
- (f) Encourage voluntary cooperation by the people, political subdivisions, industries and persons within the District in restoring and preserving the purity of the air within the District.
- (g) Act as coordinator between air pollution agencies of the states party to this agreement and their political subdivisions in the establishment by them of rules, regulations and standards for the control and abatement of interstate air pollution.
- (h) Enter into any contracts necessary to carry out the objectives of this Compact.
- (i) From time to time make such inspections as may be necessary to carry out the objectives of this Compact.
- (j) After public hearings, as hereinafter provided, establish and maintain standards whereby and wherefrom, so far as reasonably practicable and possible, it can be ascertained and determined whether any particular emission, escape or discharge of air contaminants, or any combination thereof, does or does not constitute air pollution; promulgate rules and regulations for the carrying out of the objectives of this Compact and for the prevention and control of air pollution; delineate and classify different areas within the District according to density of population, physical conditions prevailing, wind directions and velocities, zoning classifications and other measures found after investigation to be proper and just, and to adopt regulations for such areas, giving recognition to the fact that a quantity of air contaminants which may cause serious air pollution or air pollution nuisances in one area or location may cause a different degree of air pollution or air pollution nuisance in another area or location within the District.
- (k) Consider complaints of air pollution, make investigations and hold hearings; issue subpoenas requiring the attendance of any witnesses at any place within the District, the giving of testimony and/or the production of pertinent books, papers and other records, relating to the matter under investigation in any such hearing, provided that insofar as practicable any information as to secret processes or methods of manufacture or production shall not be disclosed in public hearing before the Commission and shall be kept confidential.
- (l) Issue orders directing any person to comply with the rules, regulations and standards of air quality promulgated by the Commission to carry out the objectives of this Compact, determine whether the orders of the Commission are complied with, and to bring action, in the name of the Commission, in the proper court or courts, to compel the enforcement, by injunction or otherwise, of any and all provisions of this agreement and/or the orders of the Commission pursuant thereto.

## ARTICLE VI

Standards of air quality may be established and rules or regulations shall be promulgated by the Commission pursuant to this Compact upon a determination by the Commission of the desirability therefor in the public interest and following a public hearing to be held after thirty (30) days' prior notice by publication thereof in the county or counties within the District affected thereby, at least one time in a newspaper published in or having general circulation in the county or counties within the District so affected; and there shall be stated in such notice, the date, time, place and purpose of such hearing, at which time opportunity to be heard by the Commission with respect thereto shall be given to the public.

## ARTICLE VII

Each of the states party to this agreement agrees that it will enact suitable and adequate legislation which will accomplish effectively the objectives of this Compact, and will enable its officers, departments, boards and agents satisfactorily to accomplish the obligations and duties assumed by the state under the terms hereof, and the appropriate courts shall have jurisdiction to enforce, as against any person, corporation, municipality or other entity, or any employee, department or subdivision of the respective states party to this agreement, any and all provisions of this Compact.

## ARTICLE VIII

(a) The Commission shall submit to the executive head or designated officer of each state party to this agreement, a budget of its estimated expenditures for such period as may be required by the laws of that state. Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each party government. The Commission shall make an annual report to the Governor and legislatures of each party state and to such local executives and legislative bodies as the laws of the party states may severally require, setting forth in detail the operation and transactions conducted by it pursuant to this Compact, and shall make recommendations for any legislative or other action deemed by it to be advisable, including amendments to the statutes of the party governments or of local laws or ordinances which may be deemed necessary to carry out the intent and purposes of this Compact. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established by the by-laws of the Commission and by the laws of the states party to this agreement. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly and the report of the audit shall be included in and become a part of the annual report of the Commission.

(b) The signatory states agree to appropriate annually for such salaries, office and other administrative expenses such sum or sums as shall be recommended by the Commission and approved by the Governors and legislatures of the signatory states.

(c) The Commission shall not incur any obligations for salaries, office or other administrative expenses prior to the making of appropriations adequate to meet the same; nor shall the Commission pledge the credit of any of the signatory states except by and with the authority of the legislatures thereof. Each state reserves the right to provide hereafter by law for the examination and audit of the accounts of the Commission by its Comptroller or other official.

## ARTICLE IX

Nothing in this agreement or in any action pursuant hereto shall be construed to abrogate, impair or in any way prevent the enactment or promulgation of any local law, ordinance, rule or regulation not inconsistent with this agreement or with any standard which may be established, or any rule or regulation which may be promulgated by the Commission pursuant hereto, nor shall any aspect of employer-employee relationship, including without limitation, statutes, rules or regulations governing industrial health and safety standards, be affected hereby.

## ARTICLE X

The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any state party to this agreement or of the United States, or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact, and the applicability thereof to any government, agency, person or circumstance, shall not be affected thereby. If this Compact, shall be held contrary to the constitution of any state party to this agreement, the Compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

## ARTICLE XI

This agreement may be amended from time to time by the mutual consent of the parties hereto through or pursuant to the action of their respective legislative bodies.

## ARTICLE XII

Until this Compact shall be enacted into law by the Legislature of the State of Connecticut, the District set forth in ARTICLE III hereof shall not embrace any territory within the jurisdiction of the State of Connecticut, nor shall the Commission exercise any jurisdiction or perform any duties or acts affecting such territory, and the appropriations for salaries, office and other administrative expenses shall be made solely by the State of New York and the State of New Jersey.