

Aug. 28, 1996

From: NBEN Clean Air Action Group

To: all NBEN member groups

**THE DRAFT CLEAN AIR ACT -- NEEDS HELP -- ACT QUICKLY**

Hello NBEN members. Early this fall, a new Clean Air Act will be introduced in the legislature. We urgently need your input into how the Act should look. **PLEASE READ THIS AND TAKE ACTION ! Immediately!**

Although the NBEN Clean Air Action Group has identified many weaknesses with the draft Clean Air Act, there are 4 serious weaknesses we intend to focus on. They are:

**1. *The draft Bill is inequitable.*** DOE would be able to exempt certain industries from the law and different regions in the province might have stricter emission standard than others. Areas fortunate enough to have pro-active environmental groups might have a better chance of achieving better air quality. The new act makes the assumption that the public will play an active role however the consequences of public apathy in some areas might result in poor air quality. Exemptions might be easier to get with this act than under the old.

Under section 45 k., exemptions might be easier to get. Section 45 k. states: "the Lieutenant-Governor in Council may make regulations ... respecting the exemptions of persons or classes of persons from the requirement to obtain a registration, permit or approval, to comply with any provision of this Act..."

**2.** This new Bill would not recognize a citizen's ***right to clean air*** by giving the public the right to prosecute a polluter for an emission offence where the government fails to prosecute. In fact, by removing section 17, the draft bill offers less protection to citizens. (Section 17 was used in Saint John and permitted the government to prosecute where an emission caused damage to property or health without having to prove the industry contravened a regulatory standard.)

**3.** This Bill introduces the use of ***air quality "objectives"*** as opposed to air quality "standards". While standards are legally binding and easily identifiable, objectives are fuzzy moving targets. Generally, "objectives" are not legally binding. They will make it hard for a citizen to know if what is in the industry permit bears any relation to attaining clean air. The draft Bill does not outline how these objectives will be established, nor how they will relate to industry permits. This is left to regulations (which have not been drafted) and to the Minister's discretion.

**4.** This draft Bill is full of ***discretionary language***. There are too many responsibilities in the Act that the Minister is not legally required to carry out. For example, the Minister may but is not required to, designate contaminants and establish maximum concentrations

for release of contaminants into the air. The language used in this Act must be clear and definitive. The public must know beforehand exactly what the Minister is responsible for and what the Minister must do.

**DOES THE DRAFT BILL CONTAIN ANYTHING POSITIVE? YES**

We must ensure we don't lose the good things to be introduced and you can bet there will be some hollering from industry over these. Even these provisions could stand to be strengthened. Let the Minister know what you like about the draft act. For example:

1. Citizens right to request an investigation.
2. The right to be consulted when industry permits are up for renewal.
3. The right to be consulted when objectives are being modified.

**The deadline for written submissions is Sept. 19th** (If you are sending something in after the Sept. 19 deadline just forward it to the Minister). Send to:

Law Amendments Committee,

Office of the Clerk of the Legislative Assembly,

Legislative Assembly of New Brunswick,

P.O. Box 6000,

Fredericton, NB,

E3B 5H1.

Fax 453-7154.

Please send a copy of your submission to:

Hon. Vaughn Blaney,

Minister of the Environment at the same address as above.

Telephone: 453-2558 / fax: 453-3377.

Send a copy of your submission to us at the NBEN as well.

**You can register to present in person to the Law Amendments Committee** who will be holding hearings in Fredericton (Sept. 18) and Saint John (Sept. 19) by calling 453-2506 by August 30.

There is background information available through the NBEN. Call us at 433-6101 or better yet visit our home page - address above.