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## Notes

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## NOTES\*

EPA SAYS FEDERAL AIR AND WATER POLLUTION CONTROL PROGRAMS WILL COST \$360 BILLION FROM 1977 TO 1986. The report, "The Cost of Clean Air and Water," is published annually as required by the Clean Air Act and the Clean Water Act.

OSHA PROMULGATES NEW CANCER POLICY. 45 Fed. Reg. 5002, Jan. 22, 1980. The new rules will be challenged by industry and unions in the courts.

### WATER QUALITY

GROUNDWATER PROTECTION IS "SLEEPING GIANT" OF EPA. An official of the Office of Management and Budget said that protection of groundwater will become a primary concern of EPA in coming years. EPA now will be broadening its efforts under the Resource Conservation and Recovery Act (RCRA) to deal with groundwater pollution.

U.S. JUSTICE DEPARTMENT SUES OVER NORTH CAROLINA WASTE SITE CONTAMINATING GROUNDWATER. Continuing hazardous waste enforcement efforts, the Justice Department filed a lawsuit January 11 against private parties owning land in Hanover County, North Carolina, and County commissioners. Both groups are charged with endangering human health by allowing the leaching of dangerous chemicals from landfill into several residential drinking wells. The suit was filed under the imminent hazard authority of RCRA, § 2003.

PUBLIC RIGHT TO POLLUTE RIVERS HELD SUPERIOR TO RIPARIAN OWNER'S USE. The U.S. Supreme Court refused to review a Fourth Circuit Court of Appeals decision holding that no property right of the riparian owner was taken by allowing the lawful discharge of untreated sewage into the James River by the City of Richmond. *Ancarrow v. City of Richmond*, No. 79-626.

VIRGINIA TO BE COMPENSATED FOR DAMAGE FROM OIL SPILL. The U.S. District Court for the Eastern District of Virginia held that states may impose statutory civil liability on polluters to pay for clean-up costs from oil spills. The state is not precluded by the federal Clean Water Act from establishing its own liability standards. *In re Allied Towing Corporation*, No. 78-407-N, Oct. 10, 1979.

REGULATORY CONTROL MAY BE EXTENDED TO FRESHWATER WETLANDS. The U.S. Court of Appeals, 7th Circuit, held that Congress can extend its regulatory control of navigable waters to include freshwater wetlands. The wetlands must adjoin or be contiguous with intrastate lakes which are used by interstate travelers for water-related recreational activities. *U.S. v. Byrd*, No. 78-2459, Oct. 15, 1979.

CHESAPEAKE BAY STUDY. The United States is sponsoring a study in estuarine management under the North Atlantic Treaty Organization's Committee on the Challenges of Modern Society (CCMS). The Bay is being used to emphasize the protection or restoration of environmental quality in inland water treatment.

SAVING BEACHES FROM EROSION. Virginia's Coastal Erosion Abatement Commission, after an 18-month study, recommended a \$2.7 million program to save state beaches. The study showed losses of over 28,000 acres due to erosion from 1850-1950.

#### **WASTEWATER TREATMENT & SOLID WASTE MANAGEMENT**

**PHOSPHATE CLEANUP OF POTOMAC RIVER IS HURTING, NOT HELPING ENVIRONMENT.** A study by the Environmental Defense Fund (EDF) showed that the District of Columbia's program to remove phosphates from water flowing into the Potomac is creating 200 tons of sludge daily and using 250 acres of landfill per year. Even so, the program cannot eliminate the phosphates already on the river bottom which will not biodegrade for about 42 years. Also, attaining zero phosphate discharge would result in only 38 percent reduction of algae growth. EDF said priority should be shifted to nitrate removal to restore the river to a fishable/swimmable condition.

**BALTIMORE SANITATION CHIEF REPORTS RESOURCE RECOVERY PLANT SUCCESS.** After several years of effort, the Baltimore pyrolysis plant, designed to produce refuse-derived fuel from domestic solid waste, disposes of 600 to 700 tons of refuse per day and generates up to 10 million pounds of steam per hour. Baltimore Gas and Electric Company uses the steam to save 5 million gallons of oil a year. In addition, the pyrolysis plant generates \$39,000. a week in revenues for the city.

**ALTERNATIVE WASTEWATER TREATMENT SYSTEM TRIED IN VIRGINIA.** An on-site wastewater treatment and water recycling system for processing domestic wastes has been installed at a shopping center in Great Falls, Virginia. The system uses patented Cycle-Let technology of the Thetford Corporation to treat wastewater to almost the clarity of rainwater so that it can be recycled for flushing toilets. The system handles up to 1,000 flushes per day and reduces fresh water needs by as much as 90 percent.

**COMPENSATION FOR VICTIMS OF TOXIC POLLUTION.** The Virginia Environmental Endowment, Appalachian Regional Commission, and the Mellon Foundation announced a joint grant of \$142,434. to fund the development of a state statute to provide compensation to the victims of toxic pollution. The study will be done by the Environmental Law Institute's Toxic Program, Dr. Devra Lee Davis, Director.

#### **AIR QUALITY**

**"BUBBLE POLICY" FOR INDUSTRY ADOPTED BY EPA.** Industry can create an imaginary "bubble" over a plant, allowing increased flexibility in controlling emissions from individual air pollution sources to meet emission standards. The effect of the "bubble" is that the total emissions from all sources at a single plant may not exceed the standards allowed in the plant's permit, even though a single stack would exceed permit requirements if considered alone; identical pollutants are traded off among different sources within the same plant. Companies have the opportunity to choose to control some sources of pollution more stringently (and at less expense) than controlling other sources for which technology is not available or is not cost effective. 44 Fed. Reg. 71780, Dec. 11, 1979.

**VISIBILITY DECREASED IN RURAL AREAS OF THE EASTERN U.S.** At the American Chemical Society's Southeastern Regional Meeting, a Florida State University study was presented which showed that an increase of sulfate particles are being formed from sulfur dioxide emissions. A major source of the emissions is power plant stacks, especially in the Ohio River Valley.

**AUTO EMISSION CONTROL IN VIRGINIA.** HB No. 116 before the General Assembly would require emission inspections along with semi-annual auto safety inspections.

## COAL

REDUCED USE OF EASTERN COAL PREDICTED BY STUDY. The Utility Air Regulatory Group (UARG), representing the major utilities, sponsored a study which showed that EPA's newly promulgated performance standards for coal-fired electric plants could dramatically restrict use of midwestern and eastern coal which is high in sulfur content. The study claimed that EPA's figures showing 90 percent scrubber efficiency were too high, resulting in unrealistic standards which could not be met using high sulfur coal.

SURFACE MINING CONTROL AND RECLAMATION ACT FOUND UNCONSTITUTIONAL IN PART BY FEDERAL DISTRICT COURT. On January 3, 1980, a federal district court in Abingdon, Virginia, found portions of the Act invalid. Most important, the court held that Section 515 (d) and (e), dealing with reconstruction of steep mined slopes to their approximate original contours, violated the powers reserved to the states under the Tenth Amendment to the U.S. Constitution as well as the Fifth Amendment's prohibition against the taking of private property without just compensation. The Interior Department has asked the court for a stay on the ruling. *Virginia Surface Mining and Reclamation Association v. Andrus*, No. 78-0224-B, Jan. 3, 1980.

## ECONOMIC INCENTIVES

IRS RULING REMOVES OBSTACLE TO EPA'S EMISSIONS OFFSET POLICY. A new industry which wants to locate in a nonattainment area can pay for pollution control devices on other established industries.

### Tax Benefits:

1. If the new industry owns, installs and operates the device, it can depreciate the device on its taxes and qualify for the investment tax credit;
2. The established industry does not realize gross income from installation of the device;
3. The new industry can deduct expenses for operation and maintenance of the device under Section 162 of the IRS Code;
4. If the new industry acts as an independent contractor, it can deduct the cost of construction, operation and maintenance of the device.

See IRS RULING 79-264.

GOVERNMENT PROGRAM FOR WASTE DISPOSAL FIRMS. Waste disposal firms could be eligible for a Small Business Administration program which guarantees payments for pollution control facilities. Small, credit-worthy firms may be able to finance the equipment necessary to meet pollution control permit requirements and still remain competitive in their fields. See 44 Fed. Reg. 58745.

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\* Information for these notes was excerpted from Bureau of National Affairs *Environment Reporter* issues covering the past four months.