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## High Court Upholds EPA's "Bubble" Concept

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The U.S. Supreme Court on 25 June upheld an Environmental Protection Agency (EPA) policy that eases restrictions on new sources of air pollution at existing factories. The ruling means that companies will be subject to much less stringent regulations when they want to add a smokestack, boiler, or furnace. Whether improvements in air quality will be significantly hindered as a result of the decision is disputed.

The EPA policy was designed to encourage plants to modernize without high pollution control costs, but the Carter and Reagan administrations have implemented it differently. Under the plan, a state is permitted to regard an entire factory as a single source of air pollution—as if it were under a bubble—rather than counting each new smokestack, for example, as an individual source. For each new source of pollution, according to the "bubble" concept, the plant must reduce pollution elsewhere in the plant. Otherwise, the addition would be treated as a new source, subject to more stringent regulations.

The legal issue centered on whether EPA, under amendments to the Clean Air Act, could allow the "bubble" concept to be used in states that have failed to meet federal air quality standards. The amendments do not explicitly address the point. While the Carter Administration said the concept only applied to states in compliance with provisions to maintain the status quo of air quality in their areas, the Reagan Administration has applied the bubble concept to all states. The Supreme Court overturned a decision by the U.S. Court of Appeals and ruled 6 to 0 that EPA had made a reasonable interpretation of the Clean Air Act.

Under the Carter Administration, new air pollution sources built in states out of compliance were subject to permits, which required the company to use the best available pollution controls, to clean up other sources on the same site and at other plants in the state, and to make a net reduction in emission. David Doniger, an attorney at the Natural Resources Defense Council, which brought the suit in the

lower court, contends that under the high court's ruling, plants in major urban areas can now get around the definition of a new source and avoid the permit criteria. As a result, a plant can actually emit more air pollution without penalty, he says.

Michael Levin, chief of EPA's regulatory reform staff, says use of the bubble concept in all states will not significantly change air quality, for better or for worse. Levin says that the bubble concept, in combination with other state requirements, will lead to better reductions in air pollution.

The Senate Environment and Public Works Committee is trying to limit the use of the plan to states in compliance through a provision embodied in the Senate's version of the Clean Air Act reauthorization bill. The bill was voted out of committee but is not likely to go anywhere this session because the House version is stalled, according to a committee aide.

—MARJORIE SUN

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## Supreme Court Orders Pesticide Data Released

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In another significant environmental decision, the U.S. Supreme Court recently upheld the government's unfettered right to release industry data on pesticide safety to the public. A long-time goal of environmentalists, the disclosure of such data was required by the federal pesticide act of 1978. Due to a series of legal maneuvers by the chemical industry, however, the requirement has never been fully implemented, and outsiders have been largely unable to scrutinize scientific studies used as a basis for pesticide registrations.

Ruling on 26 June in a case that pitted the Monsanto Chemical Corporation against the Environmental Protection Agency (EPA), the Supreme Court demolished the last of these legal obstacles, an injunction erected by the federal district court in Missouri, where Monsanto is headquartered. Monsanto's principal argument before the district court was that competitors can use the results of pesticide safety tests to register similar products, and that the requirement for public disclosure is therefore an unconstitutional seizure of valuable private property.

Justice Harry Blackmun, writing for the Supreme Court, agreed that use of the data by a competitor warranted financial compensation, but declared that this issue was settled reasonably by a compensation provision in the 1978 law. Consequently, Monsanto had no "reasonable, investment-backed expectation" that the information would forever remain inviolate, he said. Therefore, data submitted after the law took effect must be released immediately, he wrote.

Disclosure of scientific data submitted before 1978 is a bit trickier because an earlier pesticide law indicated that the data would be held in confidence. Blackmun resolved this problem by giving EPA approval to release it anyway, and the chemical industry approval to seek restitution from the government in the U.S. Claims Court. Robert McLaughlin, an EPA staff attorney, says that the agency will now endeavor to process swiftly an expected "flood" of information requests.—R. JEFFREY SMITH

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## Environmentalists Produce National Economic Agenda

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A coalition of environmental groups has come out with a blueprint for restructuring the entire economy in a forceful bid to inject themselves into the industrial policy debate.

Now that many environmental gains have been nailed down, environmentalists think the time has come to bridge the gulf that remains between them and the business and labor communities. The report, initiated by the Natural Resources Defense Council, therefore purports to show how healthy economic growth is compatible with sustainable exploitation of resources, environmental preservation, and full employment.

The report is sharply critical of the current industrial policy debate for focusing almost entirely on industry. It maintains that little attention is paid to the effect of policies on human resources, and less on the natural resource base—namely, energy, water, and agriculture. It observes that the global dimensions of the issue are ignored except as they relate to "how to combat the foreign onslaught on U.S. markets."

The document, "America's Economic Future: environmentalists enter the industrial policy debate," opposes protectionism. But it asserts that free-market forces have their limits when it comes to reflecting the social and environmental costs of economic decisions, or assuring equitable distribution of wealth. It therefore calls for a variety of government actions (or undoing of past actions) offering incentives for conservation of resources, promotion of renewable energy, introduction of more durable and recyclable products, and the slowing of agricultural land degradation.

As for industry, the report supports modernization of smokestack industries and urges that those that are relocated be kept in "brownfield" areas where they will do less environmental damage and supply jobs in already industrialized regions. With regard to growth industries, the report suggests that the government not try to copy Japan by "picking winners" but supply assistance "where growth will have environmental or national security benefits not taken account of by the market."

The authors propose creation of two new federal bodies to survey the big picture and attempt to forge a policy consensus. They also strongly urge the establishment of a national foresight capability like that envisaged in the Critical Trends Assessment Act that is now before Congress.

—CONSTANCE HOLDEN

## Fight Over Ag Research Continues

Representative George Brown (D-Calif.) is trying a variety of tactics to beef up basic biotechnology research in agriculture in an effort to counteract opposition by Representative Jamie Whitten (D-Miss.), but he has had mixed results.

In June, the House Appropriations Committee, which Whitten chairs, sliced a U.S. Department of Agriculture (USDA) proposal for a competitive grants program in biotechnology from \$28.5 million to \$10 million. In addition, Whitten also tacked on provisions for several applied research projects (*Science*, 15 June, p. 1222).

Brown wants the funds restored. In one attempt, Brown tried to amend the USDA budget on the House floor, but failed. His amendment would have restored a majority of the funds shaved by Whitten. Brown said in support of his amendment, "We are giving [OMB and the Administration] a slap in the face when we take their request for \$28.5 million for an important new initiative and cut it back. . . ." Whitten responded by saying that current problems facing U.S. farmers require applied research instead of basic, which is "where you try to find answers for answers' sake in the hope that sooner or later it might relieve our problem." Brown's amendment failed, as he expected it would. "On the floor, no one wants to get involved in this debate—it's not the most earth-shaking issue," Brown told *Science*.

Brown has taken another tack to improve the prospects for a stronger federal initiative in agricultural biotechnology. He introduced a bill (H.R. 5780) to amend the NSF act so that funding for agricultural research programs would be handled by NSF. Although Brown calls this something of a "hare-brained idea," he says it might be a way for NSF "to pick up the slack . . . in an exploding area of science. The question is, are we serious about keeping up with its agricultural impacts?" However, Brown's proposal has not been warmly embraced.

Right now, a persuasive effort to restore the program is being directed toward the Senate where USDA's budget must be dealt with next. For example, National Academy of Sciences president Frank Press has been urging key figures, including Senator Thad Cochran (R-Miss.) and Senator Thomas Eagleton (D-Mo.), who are the ranking members on the agriculture appropriations subcommittee, to reinstate the USDA research budget items.

Meanwhile, USDA is getting some confusing, "mixed signals" from Congress, Brown says, when the department deserves a clearer message. "We have been pushing USDA to look at its long-term plans and identify directions to take. They have come up with some very good work." The risk right now is that these budget impediments will have a "chilling effect on that whole process USDA has spent several years developing," Brown concludes.—JEFFREY L. FOX

## Tennessee Luring Scientists for High-Tech Development

The University of Tennessee and Oak Ridge National Laboratory have launched a joint "distinguished scientist program" that is offering \$100,000-a-year salaries to attract 30 top scientists to the area.

The first two appointments, announced by Senator Howard Baker (R-Tenn.), a prime mover behind the program, are physicists George F. Bertsch from Michigan State University and Gerald D. Mahan of Indiana University. The total annual support for each position will be \$200,000, supplied by the state and the Department of Energy.

Additional scientists will be appointed to tenured professorships over the next 5 years. The purpose of the program is to strengthen science and technology in East Tennessee and contribute to the state's goal of making the Knoxville-Oak Ridge corridor a center for high-technology industrial development.—CONSTANCE HOLDEN

## Comings and Goings

There have been of late a number of changes within the biomedical community. **Donald S. Fredrickson**, former director of the National Institutes of Health, was promoted from vice president of Howard Hughes Medical Institute to president and chief executive officer. He succeeds **George W. Thorn**, formerly of Harvard, who becomes the institute's chairman of the board.

At the University of California at San Francisco and Johns Hopkins University, the chairmen of the departments of medicine have announced their intention to resign. **Lloyd H. Smith, Jr.**, has held the post at San Francisco for 20 years and **Victor McKusick** at Hopkins has headed the department for 11 years. Both men plan to remain on the faculty. At Stanford's medical school, **Dominick Purpura**, who has been dean for the past 2 years, has asked to be relieved of his administrative responsibilities but will continue research and teaching. Stanford hopes to have a new dean by 1 September.—MARJORIE SUN