



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

March 5, 1976

OFFICE OF THE
ADMINISTRATOR

MEMORANDUM

TO: EPA Staff

FROM: Division of Visitors and Information Exchange
Office of International Activities

SUBJECT: Attached Report on Great Britain

Attached is a report on Great Britain, fourth in a series of background country papers for EPA staff involved in international activities. Earlier reports covered national environmental programs in Japan, Luxemburg and Belgium. Other reports will be available soon include:

ASIA

Australia

EUROPE

Austria	Italy
Denmark	Netherlands
France	Spain
Germany (Federal Republic)	Sweden
Ireland	Switzerland

NORTH AMERICA

Canada

The country profiles, together with our monthly bulletin -- "Summaries of Foreign Government Environmental Reports", are to inform EPA staff about national environmental efforts abroad. Suggestions on improving the format or contents of the reports are welcome. Please call Dolores Gregory (202-755-0560).

Attachment

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Office of International Activities
Environmental Protection Agency
March, 1976

PREFACE

This is a brief report on the organization and management of environmental activities on the national level in Great Britain. Earlier reports on Japan, Luxemburg and Belgium were distributed and similar reports on other countries are being prepared. These reports, which are background papers for EPA staff involved in international activities, are not for distribution outside the Agency.

Emphasis is on policy and regulatory functions of national environmental agencies. Research and development, often under the auspices of other departments, for example, Ministry of Science and Technology, are not covered in these reports.

Source documents for the reports, received under the International Documents Exchange, are available in the EPA Headquarters Library. English summaries of the foreign documents are published in the monthly bulletin "Summaries of Foreign Government Environmental Reports."

Office of International Activities
March, 1976

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E N V I R O N M E N T A L C O N T R O L I N G R E A T B R I T A I N

I. National Organization for Environmental Control government structure

Great Britain is a constitutional monarchy, with the power of the Crown having been progressively reduced in the course of history to the point that the Queen acts now only on the advice of her ministers, advice that she may not constitutionally overlook. A unitary state placing strong emphasis on local government and democratic processes, Great Britain has an evolved and flexible constitution based on statutes, common law, and uncoded precepts and practices. The traditional divisions of government are easily distinguishable despite their overlapping functions. The bicameral legislature, known formally as the Queen in Parliament, is the supreme authority. It is made up of the House of Lords, which exercises little real power, and the House of Commons, a popularly elected chamber that wields the significant power in the country. The executive authority rests with (1) the Prime Minister and his Cabinet and other ministers of the Crown; (2) the government departments generally operating under one of the ministries and staffed with civil servants; (3) the local authorities, particularly important in environmental control; and (4) the statutory boards. The judiciary, functioning independently of the legislative and executive branches, determines common law and interprets statutes.^{1*}

national environmental organization

In November 1970 Great Britain became the first country in the world to establish on the cabinet level a Department of the Environment (DOE).² At its head is a Secretary of State who, unlike the ministers for specialized functions

*All reference notes will be found beginning on Page 30.

who assist him, participates in cabinet sessions as a member of the government. He possesses the necessary executive powers and statutory authority to ensure that his policies are implemented. He has the final responsibility for all DOE activities, including those of the subsumed ministries.^{3*}

structure and functions

The new department absorbed the former Central Cabinet Unit on Environment Pollution and three previously independent ministries — Housing and Local Government, Transport, and Public Buildings and Works, although these former ministries, under somewhat altered designations, have retained their areas of responsibility and their ministerial heads. The Secretary of State for the DOE is primarily responsible for the formulation of departmental policy and priorities and the coordination of the work of the three absorbed ministries.

The scope of DOE activities is evident in any cursory examination of the wide-ranging functions of the ministries that the new department took over, functions that relate directly or indirectly to the environment.

The Minister for Housing and Construction is responsible for housing programs and their financing; building codes; new towns; coordination with the construction and civil engineering industries; and, through the Property Services Agency, for government residences and supplies; construction of government facilities, and the maintenance of Crown property.

The Minister for Transport is responsible in England for the general structure of the nationalized transport industries (including railroads, ports, watercourses, and buses), the general supervision of their operations and financing; the overall allocation of national resources in the transportation sector.

*This report deals primarily with environmental control in England, although there exist corresponding controls in the other "nations." The administration of these controls in Scotland and Wales differs slightly and the names of the administering organizations are not identical with those operating in England.

Day-to-day management resides, however, with the pertinent boards of these industries.

The Minister for Local Government and Planning is responsible for local government; regional land use and transport planning; the countryside and its preservation; roads and highways; and water, sewerage and refuse disposal.⁴

In addition to these sectoral functions, the Department of the Environment has executive responsibility for the prevention of environmental pollution with special responsibility for clean air and noise abatement, solid waste management, research into highways, construction, hydraulics, water pollution, fire prevention, and the uses of timber. In these endeavors the Secretary of State for the DOE is assisted by Parliamentary Undersecretaries of State and an extensive civil service staff including a coordinating team of scientists and administrators who form the Central Unit on Environmental Pollution.⁵

The Department of the Environment enters into collaborative arrangements for research in inland transportation with the Department of Industry. It also makes grants to the Centre for Environmental Studies, an independent research body that looks into the problems of urban and regional planning. The Centre focuses attention on the socio-economic aspects of environmental subjects.

The Central Unit on Environmental Pollution, administered by an undersecretary, is one of the five directorates making up the Deputy Secretariat for Environmental Protection, the core element of the Department of the Environment in terms of environmental programs. The other four offices are the Undersecretariats for Water; Noise, Clean Air, and Wastes; Road Safety; and Vehicle Engineering and Inspection. The Alkali and Clean Air Inspectorate, which figures

prominently in the struggle against air pollution and which until recently operated under the same Second Permanent Secretary as the Central Unit on Environmental Pollution, is now under the jurisdiction of the newly created Health and Safety Executive.

staffing

In view of its wide range of functions, exceeding those generally associated with pollution control in its narrower sense, it is not surprising to find that the DOE staff is quite large. The Central Statistical Office reported that as of April 1, 1973 DOE employed more than 74,000 civil servants, excluding casual and seasonal employees.⁶

other agencies with environmental responsibilities

In addition to the Department of Environment, there are numerous other governmental and official and advisory bodies performing a role in environmental protection. Among them are other ministries, commissions, councils, and boards.

The founding of the department and the consolidation of many environmental responsibilities did not strip other ministries of their particularized duties in pollution control. The Ministry of Agriculture, Fisheries and Food is still responsible for farming and fishing and for the control of pesticides used on land, the disposal of farm wastes, and for the monitoring of contaminants in food products. The Department of Trade retains its interest in pollution at sea and in noise and other nuisances near airports. The Departments of Employment and of Health and Social Security maintain their obvious sectoral functions in matters of the work environment and hygiene. Nonetheless, the Secretary of State for the DOE is responsible for coordinating all the anti-pollution efforts⁷ regardless of where the departmental responsibility lies.

In 1970 a standing Royal Commission for Environmental Pollution was

UNITED KINGDOM DEPARTMENT OF THE ENVIRONMENT
ORGANIZATION ON SEPTEMBER 1974

PERMANENT SECRETARY

SECOND PERMANENT SECRETARY

Deputy Secretary and Chief Planner

- Under Secretary, Planning Development Plans System
- Under Secretary, Planning Land Use Policy
- Under Secretary, Planning Urban Project Appraisal
- Under Secretary, Urban Affairs & Commercial Property
- Under Secretary, Leisure Experiments
- Under Secretary, Planning Urban & Passenger Transport
- Under Secretary, Ancient Monuments & Historic Buildings
- Under Secretary, Archaeology
- Under Secretary, New Towns
- Deputy Chief Planner, Planning Intelligence

Deputy Secretary (Planning and Local Government)

- Under Secretary, Planning Regional Plans
- Under Secretary, Planning Regional and Minerals
- Under Secretary, Planning Sport & Countryside
- Under Secretary, Local Government

Deputy Secretary (South East England)

- Under Secretary, London
- Under Secretary, South East & East Anglia
- Deputy Chief Planner, South Eastern (Professional)
- Under Secretary, Channel Tunnel

Deputy Secretary (Environmental Protection)

- Under Secretary, Water
- Under Secretary, Noise, Clean Air & Wastes
- Under Secretary, Central Unit on Environmental Pollution
 - Director, Water Engineering 1
 - Director, Water Engineering 2
 - Director, Water Engineering 3
 - Director, Central Water Planning Unit
- Under Secretary, Road Safety
- Chief Mechanical Engineer, Vehicle Engineering & Inspection

SECOND PERMANENT SECRETARY

Deputy Secretary (Transport Industries)

- Under Secretary, Ports
- Under Secretary, Railways
- Under Secretary, International Transport & Nationalized (General)
- Under Secretary, Freight

Director General Highways

Chief Highway Engineer

Deputy Chief Highway Engineer (1)

Deputy Chief Highway Engineer (2)

Deputy Director General, Highways

Under Secretary, Construction Units

Under Secretary, Highways Planning & Management

Under Secretary, Highways Programming, Contracts & Lands

Deputy Secretary (Housing & Construction Industries)

Under Secretary, Housing A

Under Secretary, Housing B

Under Secretary, Housing C

Director, Housing Development

Under Secretary, Construction Industry (Home & Overseas)

Director General Research

Director, Research Requirements

Director, Building Research Establishment

Director, Hydraulics Research Station

Director, Transport & Road Research Laboratory

CHIEF EXECUTIVE, PROPERTY SERVICES AGENCY

Deputy Chief Executive I

Director, Home Estate Management

Director, Estate Management Overseas

Director, Estate Surveying Services

Deputy Chief Executive II

Director of Scottish Services, Property Services Agency

Director Home Regional Services

Directors of PSA Regions (Home)

Director Property Services Agency, Wales

Principal Establishment Officer, Property Services Agency

Principal Finance Officer, Property Services Agency

Deputy Chief Executive III

Director, Defense Services I

Directors of PSA Regions (Overseas)

Director, Defense Services II

Director, Post Office Services

Director, Social & Research Services

Deputy Chief Executive IV

Director, Building Development

Director, Civil Engineering Development

Director, Engineering Services Development

Director, Quantity Surveying Development

Controller, Supplies

Director, Planning Inspectorate

Chief Inspector of Audit

Solicitor

Principal Assistant Solicitor

Principal Assistant Solicitor

Director General Economics & Resources

Director, Economics (Housing, Urban & Environment)

Director, Economics (Transport)

Director, Statistics

Principal Finance Officer (Local Government & Development)

Principal Finance Officer (Housing, Transport Industries &
Central Services)

(Principal Finance Officers report to Permanent Secretaries on
functional responsibilities, and to DGER on PESC)

Director General Organization & Establishments

Under Secretary, Senior Staff Management

Under Secretary, Personnel, Manpower & Training

Under Secretary, Management Services

Director, Information

Under Secretary, Driver & Vehicle Licensing

.

REGIONAL DIRECTOR & CHAIRMAN REGIONAL ECONOMIC PLANNING BOARD

West Midlands

Yorkshire & Humberside

North West

Northern

South West

East Midlands

COUNTRYSIDE COMMISSION

DEVELOPMENT COMMISSION

DIRECTOR

SECRETARY

established to act as an independent body to advise government on the whole field of pollution control. More specifically, the Commission has been charged with responsibility for advising the government on national and international matters concerning the pollution of the environment, the adequacy of environmental research, and on future hazards to the biosphere. The Commission conducts investigations and occasionally publishes reports. It also studies specific problems at the request of other government departments.⁸

Other government bodies have particularized interests or functions. Among them is the National Water Council, established by the 1973 Water Act. The Council, consisting of the chairmen of the 10 recently created Water Authorities, is the central body that serves as the main source of advice to the government on a national water policy. The Clean Air Council, set up under the 1956 Clean Air Act, reviews the progress made under the various legislative enactments for the abatement of air pollution and obtains the opinions of experts on problems of air pollution. The Noise Advisory Council and the Waste Management Council also give advice in their respective fields.

national-local relations

Although Great Britain is not a federal state, it has a long tradition of delegating responsibility and power from the central government to the local authorities. The latter (county and district councils) are statutory bodies, deriving all their power for the provision of services from the acts of Parliament. In April 1974, under the provisions of an act reorganizing local government in Great Britain, the number of local authorities was reduced in an effort to strengthen local democracy and ensure that more decisions are taken at the level of those most affected by them. The local authorities exercise a significant role in environmental planning and in the implementation and enforcement

of environmental policy. Although the national government sets national environmental strategies and targets, the local authorities, responsible as they are to local opinion, normally execute policy based on local needs. In light of the absorption of the former Ministry of Housing and Local Government, the Department of the Environment has become the main link between local authorities and the central government in England.⁹

II. Environmental Laws

legislative system

Parliament as the central law-making organ of the country is a corporate body and generally may not legislate without the approval of all its parts -- the Queen, the House of Lords, and the House of Commons. Proposed legislation may be introduced in either house unless its chief purpose is financial, in which case it must originate in the Lower House. Great Britain makes use of a system of delegated legislation to ease pressure on the law-makers. Under this system ministers and other authorities are empowered to regulate administrative detail after a bill has become law. Government departments, the Department of the Environment among them, are the main instruments for giving substance to government policy after Parliament has passed the necessary legislation. These departments often work through local authorities, statutory boards, and government-sponsored organizations operating under varying degrees of government control. This is particularly true in the case of the Department of the Environment. Its efficacy in environmental matters is largely dependent on cooperation and coordination with county and district councils and various statutory authorities.

highlights of environmental laws

That pollution control has a long history in Great Britain is due to an early awareness of the consequences of industrial concentration, urbanization, and population density. In addition to being the first country to experience the Industrial Revolution, England is one of the most densely populated countries in the world. Early abatement efforts, however, were scattered and largely ineffectual. It was not until this century that serious and concerted efforts were undertaken to reduce pollution levels in the nation's rivers and in the

skies above its cities. In November 1970, however, an important step toward an encompassing approach to environmental protection was taken with the creation of the Department of the Environment, and this approach was extended to legislation with the passing of the Control of Pollution Act 1974, a sweeping piece of legislation which covers nearly all sectors of pollution control: waste disposal and collection, water pollution, noise abatement and air pollution. Generally speaking, the Act, which does not necessarily supersede already existing legislation in the areas it covers, increases the powers of local authorities and Regional Water Authorities in pollution control. It increases the penalties for pollution offenses across the board. A major innovation in the law is the requirement that polluting sources be publicly disclosed. This is in sharp contrast to earlier legislation requiring confidentiality in such matters.

The Control of Pollution Act was signed into law in mid-1974. However, concern with the difficult economic situation in Great Britain has caused the Government to delay its implementation. As of late 1975, only a few miscellaneous provisions had entered into force, and the Government had announced that only provisions which introduce discretionary powers or which do not involve significant public expenditure would be brought into force in the near future. Thus, although most provisions regarding noise control and air pollution are expected to become effective on January 1, 1976, important sections dealing with water pollution and waste disposal will be considerably delayed in their implementation.

water pollution

Until such time as repealed or amended through the implementation of the appropriate water pollution provisions of the Control of Pollution Act 1974, which extends existing methods of water protection to virtually all inland and coastal waters, the chief laws designed to prevent the pollution of inland waters are:

the 1923 Salmon and Freshwater Fisheries Act, the 1945 Water Act, the 1951 and 1961 Rivers (Prevention of Pollution) Acts, the 1960 Clean Rivers (Estuaries and Tidal Waters) Act, the 1963 Water Resources Act, and the 1973 Water Act.

The 1923 Salmon and Freshwater Fisheries Act makes it an offense to put into a water body containing fish any liquid or solid matter that may be poisonous to aquatic fauna or detrimental to the spawning ground or food supply of the fish.

The 1945 Water Act gives statutory water undertakers (those licensed to supply water) the authority to make bylaws for the prevention of the pollution of the waters on which they draw. The Secretary of State for the DOE now may by notice require a statutory water undertaker to make bylaws or, if necessary, he may himself make such regulations.

The 1951 and 1961 Rivers Acts make it an offense to cause or knowingly permit poisonous, noxious, or polluting matter to enter a stream. Further, they prevent new or altered discharges of effluent from trade premises and farms or of sewage effluent into non-tidal rivers without the consent of the appropriate River Authority. Local authorities are required to obtain permission and comply with the consent conditions for the discharge into a river of effluent from their sewage disposal works in the same manner as any other discharger. This act also empowers the River Authorities to make bylaws, subject to confirmation by the Secretary of State for the DOE and the Minister of Agriculture, Fisheries and Food to prevent litter and refuse from being placed in the rivers.

The 1960 Clean Rivers Act extended provisions of the 1951 Rivers Act, dealing with effluent discharges from trade premises and farms, to include discharges into all estuaries and tidal rivers.

The 1963 Water Resources Act established a Water Resources Board and granted to the River Authorities the right to acquire land either by agreement

or compulsorily for the purpose of protection against water pollution in any reservoir owned or operated by them or in any underground strata from which the authorities are licensed to withdraw water. Provisions were also made under this act for the prevention of underground pollution by new discharges into any well, pipe, or borehole.

The 1973 Water Act established a new system for the administration of matters dealing with water conservation, water supply, sewerage and sewage disposal, prevention of river pollution, fisheries, land drainage and recreation. Most significant was the establishment of 10 new regional bodies known as Water Authorities. The authorities (nine in England and one in Wales) are responsible for the water and sewage functions previously carried out by more than 1,500 bodies including the 29 River Authorities. These new regional Water Authorities are subject to guidance from the Minister of Agriculture, Fisheries and Food and from the Secretary of State for the DOE. The act transfers to the Water Authorities most of the functions previously exercised by local authorities and the River Authorities. These functions include matters relating to sewerage, drainage, fisheries, flood control, water supply, and the prevention of water pollution. The act confers upon the new Water Authorities the sewage disposal functions that previously were the responsibility of local authorities. The act also set up the National Water Council with broad advisory functions over the entire area of water policy and the Water Space Amenity Commission with advisory functions in the specific field of recreation and amenity.

Protection against the pollution of the sea by oil, as it pertains to British ships and British territorial waters, stems from a 1954 international agreement. This protection is embodied in the 1955 and 1963 Oil in Navigable Waters Acts, since consolidated, along with the 1971 Oil in Navigable Waters

Act and the 1964 Continental Shelf Act, in the 1971 Prevention of Oil Pollution Act. This legislation imposes fines upon British-registered ships for discharging oil into the open sea or into the territorial waters of the United Kingdom. Certain exceptions may be authorized.

air pollution

Control of air pollution from fixed sources such as chimneys, fires, and industrial plants is governed by two sets of legislative provisions, those of the 1906 Alkali Etc. Works Regulation Act (as amended) and by the 1956 and 1968 Clean Air Acts. The two sets of provisions are administered and enforced separately.

The Alkali Act deals with emissions from specified industrial processes, including alkali works (from which the act derives its name) and a wide range of difficult processes, particularly in the chemical, metal manufacturing, ceramic and allied industries. (The Secretary of State for the DOE may add to or subtract from the list of scheduled processes.) Essentially, the act requires that scheduled processes must be registered annually and that, as a prior condition in the case of a first registration, the scheduled process must be equipped, to the satisfaction of the Chief Alkali Inspector, with the "best practicable means" for preventing the escape of noxious or offensive gases into the atmosphere and for rendering these gases harmless and inoffensive. The act requires that the device or method constituting the "best practicable means" must then be kept in good working order and must operate continuously. For certain processes, maximum concentration limits of total acidity in effluent gases are specified. The act, which consolidated earlier legislation covering industrial air pollution, also contains provisions dealing with the functions of the Alkali Inspectorate (since renamed the Alkali and Clean Air Inspectorate and now part of the Health and Safety Executive).

The Clean Air Acts supplement the Alkali Act with the view of regulating industries and domestic premises not covered by the latter legislation. The 1965 Clean Air Act controls the amount of smoke, dust, and grit that may be emitted from chimneys servicing the furnace of any boiler or industrial plant. It bans dark smoke from chimneys, requires newly installed industrial or other non-residential furnaces to be virtually smokeless when operated continuously with the proper fuels, and specifies that new furnaces shall be so fitted as to arrest grit and dust and that this particulate matter shall be measured. The act permits local authorities to set up smoke control areas, in which owners of private dwellings are required to adapt their furnaces to burn smokeless fuel, and provides for the partial reimbursement of the owners' costs. It also established the Clean Air Council.

The 1968 Clean Air Act, designed to strengthen earlier air pollution control legislation, extends the prohibition on dark-smoke emission to every industrial or trade premise and authorizes the Secretary of State for the DOE to prescribe limits on the rate of emission of grit and dust from chimneys servicing a furnace that burns solid, liquid, or gaseous fuels. Certain furnaces designed to burn at a specified heat are required to have an arrestment device for minimizing grit and dust emissions. This act makes mandatory approval by the local authority (county or district council) of the height of certain chimneys on industrial and commercial premises. The Secretary of State for the DOE is theoretically empowered to take the initiative in declaring smoke-control areas in cases where local authorities have failed to do so for any reason, but this power has never been used.

Air pollution from motor vehicles is governed by the 1969 and 1972 Motor Vehicles (Construction and Use) Regulations and by the 1960 Road Traffic

Act. The construction and use regulations require that every motor vehicle be so constructed that no avoidable smoke or visible vapor is emitted. There is the further requirement that cold starting devices be so fitted that they cannot be operated when the vehicle is in motion. The 1972 regulations call for most commercial vehicles to be equipped by the manufacturer with plates indicating weight data and other information. These same regulations also require that, starting April 1, 1973, a compression-ignition engine shall be so constructed that it complies with the British Standards on Diesel Engines, limiting the opacity of smoke emitted at all loads. Amendment 5 to the 1972 Motor Vehicle (Construction and Use) Regulations requires that gasoline-powered, spark-ignition vehicles first used on or after November 10, 1973, but not manufactured before September 20, 1973, shall adhere to the limits for the emission of carbon monoxide and hydrocarbons as laid down by Regulation No. 15 of the Economic Commission of Europe. Since January 1, 1972 all new cars are required to be fitted with a device for recycling crankcase emissions.

A strengthened legislative base for air pollution control is provided for in Part IV of the Pollution Control Act 1974, which supplements and amends but does not supersede the legislation considered above. With regard to pollution from mobile sources, the Act stipulates that the Secretary of State for the Environment may make regulations imposing requirements on the composition and contents of any motor vehicle fuels as well as regulations preventing or restricting the production, treatment, distribution, import, sale or use in the United Kingdom of any fuels which fail to comply with these requirements. Provisions dealing with stationary sources empower the Secretary of State for the Environment to make regulations imposing limits on the sulfur content of oil fuel used in furnaces or engines. In addition, local authorities are empowered to demand

information on emissions from industrial installations in their areas; regulations issued by the Department of the Environment may require that this information be maintained in a register that is open to examination by members of the public. Although minor provisions, including those dealing with air pollution from cable burning, are to enter into force on January 1, 1976, most of these provisions are not expected to be implemented until some later date.

other water and air legislation

The 1936 Public Health Act (as amended) contains a number of provisions dealing with water and air pollution. The act imposes penalties for the contamination of drains and public sewers with chemicals or liquids prejudicial to health. It also makes it a statutory nuisance to pollute or obstruct ponds, ditches, or non-navigable watercourses so as to create a danger to public health. Another part of the same legislation provides a means for local authorities to take action against smoke and those offensive odors that are not covered by the Alkali and Clean Air Acts, branding as a statutory nuisance any dust or effluvia occasioned by a trade, business, or manufacturing process.

other environmental program areas

Controls dealing with the registration, use, and sale of pesticides and other poisonous substances are laid down in the 1933 Pharmacy and Poisons Act, the 1952 Agricultural (Poisonous Substances) Act, the 1967 Town and Garden Chemicals Act, the 1972 Poisons Act, and in regulations and orders issued in pursuance of these enactments. Safety precautions designed to protect farmers, workers, and the public at large from the dangers associated with pesticides are provided by the Pesticides Safety Precautions Scheme, a voluntary system operated by government departments and the pesticides industry to screen new products before they are marketed.

Part III of the Control of Pollution Act 1974 contains provisions for the control of noise problems on construction sites, in streets and from industrial establishments or machinery. The act details the responsibilities of local authorities in noise control, empowering them, among other things, to issue orders confirmed by the Secretary of State for the Environment designating noise abatement zones. These provisions, scheduled to be implemented in early 1976, replace the 1960 Noise Abatement Act in its entirety. Other anti-noise legislation is contained in the 1949, 1968 and 1971 Civil Aviation Acts and the 1960 Road Traffic Act.

Protection against the dangers of radiation is afforded by the 1948 and 1958 Radioactive Substances Act, the 1970 Radiological Protection Act, and by numerous regulations issued pursuant to these acts.

A legislative basis for comprehensive control of waste disposal is contained in Part I of the Control of Pollution Act 1974, which requires waste disposal authorities to develop waste disposal plans, provides for the licensing of the disposal of controlled wastes, and also contains provisions covering: the collection and disposal of controlled waste; waste reclamation; and street cleaning and litter. However, with the exception of those sections extending the powers of local authorities to reclaim waste and to produce heat and electricity, scheduled to come into force on January 1, 1976, and those dealing with licensing of waste disposal sites, implementation of which is expected in April 1976, this part of the Act is not expected to enter into force within the near future. In the meantime, waste disposal provisions contained in the 1936 Public Health Act, the 1967 Civic Amenities Act and the 1972 Deposit of Poisonous Wastes Act remain in effect.

promulgation

Enactments of Parliament appear first as single copies and then appear in Public General Acts and Measures.¹⁰

III. Standards

status of standards

In Great Britain the trend has been not to delineate uniform statutory nationwide standards governing the discharge of pollutants into the country's watercourses and into the atmosphere, although a limited number of applicable standards exist, particularly for air pollutants. Rather, the British approach to pollution abatement is characterized by the application of the "best practicable means" method, i.e. by setting of standards according to the needs of individual local environments, technological feasibility and economic circumstances, thus leaving a margin of flexibility in the handling of individual problems.

the setting of standards

The regional Water Authorities (previously known as the River Authorities) set conditions for discharges on a case-by-case basis through their "consent procedures." An application for a consent to discharge has to be made to the appropriate Water Authority for each effluent. The application must specify the nature and composition of the discharge, its maximum temperature, daily quantity to be released, and the rate of discharge. In granting consent, the Water Authority may impose conditions, i.e. standards, regarding the permissible composition, temperature, quality and rate. While there are no generally uniform standards, in keeping with the concept of tailoring them to local circumstances, a given Water Authority usually develops certain internal but widely-known guidelines for most consent conditions; and these levels -- everything else being equal -- will be imposed on discharges. The most common conditions on which a consent to discharge is granted include a temperature no higher than 30°C, a toxic heavy-metal concentration of no more than 1 part per million, a biochemical oxygen demand of no more than 20 mg/l, and a suspended solid concentration no greater than 30 mg/l.

If the Water Authority fails to reply to an application for discharge of effluents within three months of its submission, unconditional consent is construed to have been granted. If the authority refuses to give its consent or attaches conditions that the applicant regards as unreasonable, the latter has three months within which to register his objection with the Secretary of State for the DOE. The Secretary may then hold an inquiry, alter the consent conditions, grant consent unconditionally, or uphold the conditions imposed by the Water Authority. The consent conditions may be reviewed by the Water Authorities every two years or more and changes in the conditions may be made. Conditions of consent are contained in registers maintained by the Water Authorities. Under earlier legislation such registers were only conditionally open to inspection by interested parties; however, upon the implementation of the pertinent provisions of the Control of Pollution Act, these registers are to be freely available for public inspection.

Standards applicable to the discharge of pollutants into the atmosphere from stationary sources and certain mobile sources (trains and ships) are governed either by the Alkali Act or the Clean Air Acts and established partly by regulatory statutes but mainly by presumptive prescription of the Chief Alkali and Clean Air Inspectorate. For example, in 1972 the limits imposed by the Alkali Act (as amended by the Clean Air Acts) covered emissions from only four processes of the approximately 3,000 processes covered by the act. For standards pertinent to the vast majority of processes the Chief Alkali Inspectorate lays down individual emission limitations as occasion or necessity dictates.

As previously noted, the Alkali Act requires the annual registration of enterprises using industrial processes that may give rise to air pollution problems. As a preliminary condition to first registration, the operator of a

process covered by the act must provide to the satisfaction of the Chief Alkali Inspector the "best practicable means" for preventing the discharge of noxious or offensive gases into the atmosphere. The "best practicable means" is interpreted as the possession, installation, efficient maintenance, and proper use of devices for preventing such discharge within the environmental constraints specified and in the context of the latest technological and economic information. The "best practicable means" standard takes into account the effect of such measures on the operation of the process and on the costs of doing business. The obligation to use "best practicable means" is continuing and may involve changes in the plant operations as new techniques become available. In applying this requirement, the Chief Inspector defines presumptive limits for emissions that may not be exceeded at any stage. The definition of these limits or standards results from close discussion with interested parties and full consideration of all aspects such as environmental consequences and the technical and economic feasibility of control measures.¹²

The 1956 and 1968 Clean Air Acts and their implementing regulations prescribe certain procedures for defining and assessing dark and black smoke, set design standards for new plants, establish limitations on smoke emissions, and empower local authorities to set up smoke-control areas in which only certain fuel which is smokeless when combusted may be burned. These acts themselves or the regulations issued pursuant to them set either standards or guidelines on chimney heights; grit, dust, and fume emissions; and on arrestment installations for new furnaces. The emphasis is seldom on uniform, nationwide standards. For example, the 1968 Clean Air Act, while granting the Secretary of State for the DOE the right to prescribe levels and rates of emission of grit and dust from furnace chimneys, authorizes him to set different limits for different cases and

according to varying local circumstances. This flexibility is an essential facet of the British approach to environmental control.

formulation of standards

To assist lawmakers and local authorities in the setting of technical and quantitative objectives for environmental quality, the British government has over the years established numerous councils, committees and commissions. For example, the Beaver Commission, appointed following the catastrophic 1952 London smog, made the recommendations that culminated in the 1956 Clean Air Act. The Clean Air Council provides a continuing advisory function in matters relating to air pollution and its abatement. The Standing Advisory Committee on Water Quality assists the government and the National Water Council advises water authorities in the planning and development of water and sewage facilities.

promulgation

Acts, regulations and orders passed by Parliament are usually published annually in the Index to Government Orders. Bylaws of statutory boards and authorities frequently appear in the London Gazette; some go unpublished.¹³

IV. Enforcement Procedures

court system

In administering that characteristically Anglo-Saxon legal system that draws upon both statute law (mainly Parliamentary acts) and common law (customs and precedents), the British judicial system generally makes a distinction between civil and criminal cases. In fact, there are two somewhat parallel hierarchies of courts for each of these two types of cases. At the apex of both hierarchies stands the House of Lords, which, when sitting as a judicial body, is the highest court of appeal. On the civil side, there are at the lowest level the County Courts; they handle cases involving damages of less than 750 pounds. Appeals from these courts go directly to the Court of Appeal, the first appeal body before resort to the House of Lords. More important civil cases originate in the High Court of Justice, with appeals moving up to the Court of Appeal and then, if that court and the Lords consent, to the House of Lords. On the criminal side of the court hierarchy, minor cases and summary offenses are dispatched by justices of the peace and magistrates. Appeals from their decisions are taken to the Crown Courts. These courts are also tribunals of first instance for more serious cases. The Crown Court system is three-tiered, and the level at which a case may be heard is generally dependent on the gravity of the criminal offense. Appeals from the Crown Courts go to the Criminal Division of the Court of Appeal. From there appeals may be taken to the House of Lords, the body of last resort where the two court hierarchies finally meet in a common body.¹⁴

common law and statute law

The law relating to pollution derives from two main sources: common law, developed by the courts through judicial precedent, and statute law, with regulations made under statutory power. Civil actions under common law have

been more numerous than criminal proceedings, for the only criminal offense, in the absence of the violation of a statutory regulation, that is committed in the polluting of the environment may be that of a public nuisance (i.e. imperiling the life, property, or convenience of the public or obstructing the latter in its enjoyment of rights common to all). For there to be a civil case, the plaintiff must demonstrate that he has been deprived of a right common to all. In a successful case, the plaintiff may be granted damages or the defendant may be enjoined from continuing his nuisance-creating activities.¹⁵ Although common law remedies continue to be available to private citizens injured or inconvenienced by pollution, the practical effect of common law suits on the control of pollution has been negligible.¹⁶ The inefficacy of common law in curbing pollution lies in the fact that there must be a plaintiff whose legal rights have been abused, that his settlement with the defendant may not necessarily be in the interest of those not a party to the suit, and that, in the case of air pollution in particular, the courts in deciding cases must take into the account the general character of the locale.

Statute law to prevent or minimize pollution, on the other hand, creates offenses with penalties in the form of fines or prison terms. In this way, statutes support and reinforce common law, especially where common law has not provided a sufficiently adequate deterrent against environmental despoilment.

enforcement mechanisms

In enforcement procedures the British demonstrate a predilection for persuasion, while holding ready the punitive remedies provided by statute should cooperation prove futile. Perhaps nowhere is this approach better expressed than in the annual reports of the Alkali and Clean Air Inspectorate to the Department of Environment. In the Inspectorate's 1970 report, great emphasis is placed on

the virtues of cooperation between the government and the scheduled industries.¹⁷ In a report issued the following year, the inspectors declared: "Cooperation between all parties is an indispensable part of any successful anti-pollution policy. The Alkali Inspectorate has evolved such a policy over more than 100 years and a good deal of time is now spent in educating industrialists to be good neighbors." The report admonished, however, that the Inspectorate does not shirk from taking corrective legal action when the cooperative approach fails to bring the correct response.¹⁸ At this point it is appropriate to examine briefly the enforcement mechanisms available in the areas of water and air pollution.

The Water Authorities have executive authority as regards the pollution of inland waters, and the key to their system of control lies in their consent procedures. The power of these authorities is perhaps best illustrated negatively -- "they can give consent to a polluting discharge, whereupon no offense is committed."¹⁹ Discharges into underground strata, which -- for example -- would otherwise be illegal, may be lawfully carried out as soon as the consent of a Water Authority has been given. If a discharger fails to adhere to the conditions imposed by a Water Authority, the authority may have a magistrate's court revoke the consent order. The penalty for failing to apply for consent or for not complying with the consent conditions may be a substantial fine and/or a prison term.

In the case of a person causing or knowingly permitting poisonous, noxious, or polluting matter to enter a watercourse, the Water Authority, under the provisions of the 1951 Rivers Act (as amended), may apply to a County Court to bring action against the offender. A person convicted on indictment of polluting watercourses is subject to a fine not to exceed 200 pounds; a person found guilty on summary conviction is liable to a fine not to exceed 100 pounds. A

person found guilty of sustained violations is subject to much stiffer penalties. When penal provisions contained in Section 31 of the 1974 Control of Pollution Act become effective, penalties for these offenses will be more stringent. Summary convictions, for example, will result in imprisonment for a term not exceeding three months or a fine not exceeding 400 pounds or both, while convictions on indictment will carry prison terms of up to two years or a fine or both.

Despite the overriding control of the Water Authorities in matters involving the pollution of inland watercourses, these authorities have not been quick to prosecute. In 1968 there were only 33 prosecutions in England and Wales, resulting in fines in 23 cases.²⁰

Enforcement provisions of the 1971 Prevention of Oil Pollution Act include the mandatory maintenance of oil record books aboard ships and the establishment of a system of inspectors to ascertain compliance. Subject to certain exceptions that may be made at the ministerial level, the owner of a ship registered in the United Kingdom is liable to a fine of up to 50,000 pounds if any oil or oil mixture is discharged into the sea from his ship.

In coping with the problems of air pollution from scheduled processes (those industrial operations requiring registration under the Alkali Act), the enforcement mechanisms rest with the Alkali and Clean Air Inspectorate (generally called simply the Alkali Inspectorate). It is to the inspectors of this body that the owners or operators of industrial processes must apply for permission to operate, and that permission is contingent on the use of the best practicable means of reducing polluting emissions. The inspectors, all of whom have formal training in scientific and technical disciplines and wide practical experience in the chemical and allied industries, are responsible for the routine inspection of registered processes to secure compliance with the Alkali Act. They conduct

tests during routine inspections of industrial plants, but the tests required by the inspectors may be carried out in some cases by the industries themselves, the appropriate industrial laboratory, the government chemist, or by a pertinent government department. The owners of industrial plants are obliged to grant access to the inspectors and facilities for the conduct of the tests.

When an industry does not use the "best practicable means" to limit polluting emissions, proceedings may be brought by an alkali inspector, but only with the sanction of the Secretary of State for the DOE. Criminal proceedings are very rare, with the inspectors preferring education and persuasion to ensure compliance with standards. In the event that the owner or operator of a plant covered by the Alkali Act does not use the "best practicable means," he may on summary conviction be fined up to 100 pounds and for a repetition or continuation of the offense he is liable to a fine of up to 20 pounds per day. (When amendments to these provisions as contained in the 1974 Control of Pollution Act come into force, these fines are to be increased to 500 pounds and 50 pounds respectively.) Although the Alkali Act is centrally administered, i.e. by field inspectors responsible to the Secretary of State for the DOE, local authorities may request the inspectors to conduct advisory inspections of installations which come under the jurisdiction of the Clean Air Acts and are thus the responsibility of the local authorities. Local authorities may also apply to the Secretary of State for the DOE to transfer his jurisdiction over emissions of smoke, grit, and dust from the whole or any specified part of a factory from the Alkali Inspectorate to their own local jurisdiction for the purpose of prosecution under the Clean Air Acts. While the jurisdictions under the Alkali Act and the Clean Air Acts are mutually exclusive, there is full cooperation between the administering authorities.

The administration and implementation of the Clean Air Acts and the smoke control orders which these acts permit local authorities to issue (when approved by the Secretary of State for the DOE) are the responsibility of those authorities, i.e. county or district councils. These councils have to approve the design of new furnaces, chimney heights, operating procedures and also the type of dust arrestment equipment required for furnaces above a certain fuel-burning rate. They also have the authority to require measurements of dust and grit emissions. Under the Clean Air Acts it is an offense, punishable by a fine up to 20 pounds, for the occupant of a private dwelling to permit dark smoke to emanate from his chimney. In the case of dark smoke from any other chimney, the person permitting such an emission is liable to a fine of up to 100 pounds. (These fines are to be increased to 100 pounds and 400 pounds, respectively, when amendments contained in the 1974 Control of Pollution Act come into force.) In 1968 there were 112 prosecutions under the Clean Air Acts; there were convictions in 103 of these cases and fines in 92 instances.²¹

Under the 1936 Public Health Act, a local authority is obliged to see to it that its district is inspected from time to time for violations of the act. Under this legislation dark smoke issuing forth from the chimney of a private residence or industrial plant is a statutory nuisance. In addition to these inspections, citizens, believing themselves aggrieved by such nuisances, may report them to the local authority or take a civil case to the courts. To suppress such nuisances, the local authority first serves an abatement notice on the offending party. If the latter does not comply with the notice to desist, he may be summoned to appear before a magistrate and be fined under the provisions of the Clean Air Acts. Maximum fines are 50 pounds and five pounds per day for continuing offenses, to be increased to 400 pounds and 50 pounds respectively,

when amendments in the 1974 Control of Pollution Act become effective.

To enforce the 1969 Construction and Use Regulations proscribing the emission of smoke and visible vapor from motor vehicles, an authorized examiner may road test a suspicious vehicle to ascertain whether these exhaust regulations are being complied with. A vehicle is not required to stop for a test, however, unless requested to do so by a uniformed constable. Charged with seeing to it that these regulations governing exhausts are observed are the local police, "who experience no difficulty in enforcing this very limited degree of control." In 1970 there were 742 prosecutions for exhaust violations, with 700 convictions.²²

V. Interrelationships Between Government and Industry
overall relationship

The relationship between government and industry has been both good and close, particularly in environmental matters, at times to the consternation of environmental pressure groups and the press. The government has a number of ways of influencing and regulating industry: monetary and fiscal policy, public expenditure, the letting of contracts, policy control over nationalized industries, inducement, and persuasion. The close association between the authorities and the industrialists is due in large measure to excellent channels of communication in such bodies as the National Economic Development Council, the chief forum for consultation between the government, management, and the trade unions, and the Economic Development Committees, which cover the particular industrial sectors, and numerous trade associations. Special mention must be made of the Departments of Trade and Industry, which handle all policies affecting trade and production and assume responsibility for the government's relations with individual industries.²³ Attached to the Department of Industry in the Government Chemist, to whom the Alkali Inspectorate often turns for analysis of samples taken during monitoring at industrial plants.

The relationship between government and industry in the environmental sector is best illustrated by that existing between the alkali inspectors and the managers of industries registered under the Alkali Act. When the inspectors meet representatives of large industrial organizations, trade associations, and nationalized enterprises at conferences organized by such groups as the Confederation of British Industries or the Chemical Industry Association, the inspectors declare in their 1970 report, they usually find themselves preaching environmental control to industrialists already convinced of their own responsibility in

limiting the emission of pollutants. In fact, upon the urging of the alkali inspectors, many industries have appointed their own environmental control officers.²⁴ These company officers have the duty of ensuring that regulations are being met and of acting as a public information conduit. The British Steel Corporation and the National Coal Board have established environmental control organizations as have several of the larger public companies.²⁵

polluter-pays principle

While there is no official enactment fixing the polluter-pays principle as the law of the land, that principle is unconditionally accepted and applied by government. No grants are given to industry for pollution control. Common law liability exists for the escape of dangerous things, trespass, and public and private nuisance. The first Secretary of State for the DOE, Peter Walker, asserted at the Stockholm Conference on the Human Environment in 1972 that Great Britain is pursuing "a policy of seeing that he who causes pollution pays the cost of meeting the standards the community demands."²⁶

major industries

Great Britain, the first country to become industrialized and still one of the world's most important workshops, is a leader in trade and manufacturing. Metals and metal-using industries account for half of the country's exports. Activities that are major contributors to pollution include the chemical, metal, and fuel industries and the ceramics, cement, and metal-recovery works. Many of the processes involved in these activities are registered and inspected under the provisions of the Alkali Act.

industrial monitoring

The Alkali and Clean Air Inspectorate is responsible for monitoring pollutant discharges from registered industries, although actual monitoring may

be conducted by the industries themselves, in which case the Alkali Inspectorate checks to ensure that its limits are being complied with. Some large industries have a pollution control officer whose duty it is to continuously monitor all emissions from the site. The Clean Air Acts contain provisions for the measuring and recording of grit and dust levels and the furnishing of that information to the local authorities. These authorities can require that the costs of this monitoring be borne by the firms involved. In addition, local authorities are empowered to monitor atmospheric pollutants in their areas and regularly contribute to a national survey of smoke and sulfur dioxide concentrations.

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