Intergovernmental Relations and Environmental Protection

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Major Federal Laws

- Clean Air Act- 1970
- Clean Water Act- 1972

- Ground Pollution
  - RCRA (Resource Conservation & Recovery Act)- 1976
  - CERCLA (Superfund)- 1980
U.S. Constitutional Principles

- States created federal Government
- Federal government has limited powers
- All other powers reside in the states
- Federal government cannot force states to act
U.S Constitution and Environment

• Environment generally regulated by commerce clause

• Other areas of authority
  ▪ treaty
  ▪ defense
  ▪ federally owned lands
Pre-emption

• Where federal government has authority, it may pre-empt regulation by state or local government

• States have same authority over local government

• General Enforcement Concepts
  o Federal government can encourage state cooperation
    - Denial of funding
  o Federal government can enforce federal laws
Environmental Protection/Resource Management

- **Environmental Protection** = reduction of pollution of air, water, or ground

- **Resource Management** = value judgment about how to best use natural resources (energy; parks; public lands; fish & game; forests; coast; special areas)
General concepts for Federal Environmental Protection

- Federal facilities must follow state and local environmental laws
- Freedom of Information Act
- Citizen suits
- Protection standards
  - Health v. Cost/Benefit
- US EPA regulations subject to Presidential oversight process
Hierarchy of Intergovernmental Regulation

- **Congress**– Passes Law
- **US EPA**-
  - National Regulations
  - Approves Plans
- **State**-
  - Write and complete State Implementation Plan (SIP)
- **Local/ Regional**-
  - Writes Permits
  - Enforcement
Air Pollution

- Congress – Passes Law

- US EPA -
  - National Regulations
  - Approves Plans

- State - Air Resource Board (ARB)
  - Write and complete State Implementation Plans (SIP)

- Local/ Regional - Air Pollution Control District
  - Writes Permits
  - Enforcement
Water Pollution

• Congress– Passes Law

• US EPA-
  o National Regulations
  o Approves Plans

• State- State Water Resources Control Board
  o Write and complete State Implementation Plan (SIP)

• Local/ Regional- Regional Water Control Board
  o Writes Permits
  o Enforcement
Toxic Ground Pollution

- Congress— Passes Law
- US EPA—
  - National Regulations
  - Approves Plans
- State- **Department of Toxic Substance Control (DTSC)**
  - Write and complete State Implementation Plan (SIP)
- Local/ Regional- **Facilities- DTSC regions**
  - **Users- Local Fire Department**
  - Writes Permits
  - Enforcement
Solid Waste Pollution

- **Congress**— Passes Law

- **US EPA**—
  - National Regulations
  - Approves Plans

- **State**— Department of Resource Recycling and Recovery (DRRR)
  - Write and complete State Implementation Plan (SIP)

- **Local/ Regional**— County Health Departments
  - Writes Permits
  - Enforcement
Federal Enforcement in Practice

- US EPA enforces in half of states
- Consistent during Nixon, Ford, & Carter
- Party dependent since 1981
  - Republican- no enforcement; lots of environmental citizen suits
  - Democrat- enforcement; lots of industry suits to attack new regulations
Administration of Environmental Protection

- Federal- United States Environmental Protection Agency
- Typical State- State Environmental Protection Agency
California’s Unique Approach to Environmental Protection

- Many independent boards and commissions
- Multiple state/regional/local entities
  - Air - 31
  - Water - 10
  - Toxics Substance ~500
  - Non-toxic - 59
Cal EPA-

- **Air and Water**

  - **Water pollution control**
    1. California Water Resources Control Board (also manages water rights)
    Regional Water Quality Control Boards (9 handle water pollution permitting and enforcement; not involved in water rights)

  - **Air pollution control**
    2. California Air Resources Board (ARB) plus about 30 separate air pollution control districts
Cal EPA- Toxics on Land

- Department of Toxic Substances Control
  4 regional enforcement offices for treatment & disposal facilities
  Local Fire Departments enforce for users of toxics
- Office of Pesticide Regulation
- Office of Environmental Health Hazards Assessment (OEHHA)
Resources Agency - Department of Resources Recycling and Recovery

- Non-toxic land pollution

- Department of Resources Recycling and Recovery (Cal Recycle)
  - 58 county enforcement agencies (County Environmental Health office)
California Resources Agency
Departments

Department of Boating and Waterways
Department of Conservation Corps
Department of Conservation
Department of Fish and Game
Department of Forestry and Fire Protections
Department of Resources Recycling and Recovery
Department of Water Resources
California Resources Agency Commissions

California Coastal Commission
California Energy Commission
California State Lands Commission
San Francisco Bay Conservation and Development
Delta Protection Commission
Central Valley Flood Protection Board
Board of Forestry
Fish and Game Commission
Mining and Geology Board
Wildlife Conservation Board
Special California Rules

• Brown Act
• Public Records Act
• Initiative/Referendum/Recall
California Approach - Advantages

- Openness
- Continuity
- Distancing from political influence
California- Disadvantages

- Lack of responsibility
- Appointments for political reasons
- Little oversight of appointee behavior
Overall comments

- Approaches made by media
- Some conceptual similarity
- Discouraging decline into partisanship