Introduction to...

U.S. Environmental Policy
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
- Other areas of authority
  - treaty
  - defense
  - federally owned lands
The Commerce Clause

- Environment generally regulated by commerce clause
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
  - Federal government can encourage state cooperation
    - Denial of funding
  - 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)
- Federal approaches are quite different to EP and RM
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
Major Federal Laws

- Clean Air Act- 1970
- Clean Water Act- 1972
- Ground Pollution
  - RCRA (Resource Conservation & Recovery Act)- 1976
  - CERCLA (Superfund)- 1980
Hierarchy of Intergovernmental Regulation

- Congress—Passes Law
- US EPA—Regulations, Approves Plans
- California—Write and implements Plans
  - State Implementation Plans (SIP)
- Local/Regional—Writes Permits, Enforcement
Ground Pollution

- Toxic
  - California Department of Toxic Substance
  - 4 Local regional offices

- Municipal Solid Waste
  - CA Integrated Waste Management Board CIWMB
  - Local Enforcement Authority- County Health Agencies
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 attach new regulations
California’s Unique Approach to Environmental Protection

- Many independent boards/commissions
  - Multiple state/regional/local entities
    - 31 Air Districts
    - Governing Regional Water Districts 10
    - Toxics Substance ~500
    - Non-toxic 59
Special California Rules

- Brown Act
- Public Records Act
- Initiative/Referendum/Recall
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)
    about 35 separate air pollution control districts*
Cal EPA - Toxics on Land

- Department of Toxic Substances Control
  3 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)
Environmental Protection as a Resources Agency

- Non-toxic land pollution
- Department of Resources Recycling and Recovery (Cal Recycle)
  - 58 county enforcement agencies* (typically County Environmental Health office)
California Resources Agency

- Energy agencies
- Puc and energy commission differences
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