


# FEATURES OF AIR POLLUTION LAW

- ▶ THE CLEAN AIR ACT: COMPLEX; DRIVES MUCH OF STATE ACTION
  - ▶ CALIFORNIA: 49/CAL AUTO STANDARDS; TECH-STATIONARY STANDARDS
  - ▶ COOPERATIVE FEDERALISM: AN OXYMORON?
  - ▶ THE SPLIT: EPA: AUTOS (MOSTLY), NEW SOURCES, AND TOXICS, HAPS; STATE: STATIONARY SOURCES, CONSUMER PRODUCTS
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# FEATURES (CONT.)

- ▶ PERMITS: THE CORE OF THE REGULATORY SYSTEM
- ▶ CITIZEN PARTICIPATION: CENTRAL PART OF THE ACT.

BUT PARTICIPATE IN WHAT?  
ENFORCEMENT  
STANDARD SETTING

# THE CLEAN AIR ACT

## HOW IT WORKS:

1. NATIONAL AMBIENT AIR QUALITY STANDARDS—HEALTH-BASED
  2. STATE IMPLEMENTATION PLANS: MUST SHOW ATTAINMENT
  3. IF NONATTAINMENT AREA: MORE STRINGENT CONTROLS
  4. IF ATTAINMENT AREA: PREVENT SIGNIFICANT DETERIORATION
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# MORE CAA

## 5. MIX OF CONTROLS MUST SHOW ATTAINMENT

RECENT STRESS ON PREVIOUSLY  
UNREGULATED SOURCES: PORTS, RAILROADS,  
ETC.

6. WHEN SIP IS APPROVED: STATE MUST  
IMPLEMENT

7. SOURCES ARE PERMITTED: TITLE V  
PERMITS; INFORMATION AVAILABLE

# CALIFORNIA AIR POLLUTION LAW

## THE LAWS:

1. THE CALIFORNIA CLEAN AIR ACT
2. IN SOUTHERN CALIFORNIA: THE LEWIS-PRESLEY AIR QUALITY MANAGEMENT ACT  
CREATES SOUTH COAST AQMD

## CARB: THE STATE AGENCY

1. ADOPTS AND SUBMITS SIP
  2. REGULATES AUTOS
  3. SUPERVISES LOCAL DISTRICTS
  4. TOXIC AIR CONTAMINANTS
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# STATE LAW (CONT.)

## LOCAL DISTRICTS:

EXISTING STATIONARY SOURCES

SOME REGULATION OF AUTO USE

# ACCESS POINTS

## OPTIONS:

1. FEDERAL OR STATE
2. STATE OR LOCAL
3. ENFORCEMENT
4. REGULATORY

## COMPLEXITY:

1. LAW
  2. TECHNOLOGY
  3. PROCEDURE
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# ACCESS POINTS (CONT.)

1. AIR QUALITY PLANNING  
CENTRALITY OF SIPS  
NEGOTIATION AND COMPROMISE  
IMPORTANCE OF SPECIFICITY  
EXAMPLES: SIP LITIGATION; SAN  
JOAQUIN VALLEY CASE
2. RULEMAKINGS  
THE RULEMAKING PROCESS: NOTICE,  
COMMENT, ETC.

# ACCESS POINTS (CONT.)

## 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

APPLIES TO AIR QUALITY AGENCIES  
COMMENTING PROCESS  
LITIGATION

## 4. IMPLEMENTING THE SIP

MONITORING IMPLEMENTATION

# ACCESS POINTS (CONT.)

## 5. IDENTIFYING AND GATHERING INFORMATION

PUBLIC RECORDS ACT  
HEARINGS

OTHER SOURCES: REPORTS

## 6. PERMIT ISSUANCE

INVOLVEMENT MORE DIFFICULT

## 7. VARIANCES

CAL. STATUTE: PUBLIC MAY TESTIFY

# ACCESS POINTS (END)

8. CITIZEN SUITS  
FORCE MANDATORY ACTION: MOSTLY  
LEGAL  
ENFORCE PERMITS  
GATHERING BACKGROUND INFORMATION  
MOST LEGAL: STANDING, NOTICE, OTHER  
TRICKY REQUIREMENTS
9. TESTIMONY AT PUBLIC HEARINGS  
VARIOUS ISSUES
10. TASK FORCES AND OTHER ONGONG  
PROCESSES  
EXAMPLE: REGULATORY NEGOTIATION

# EFFECTIVENESS OF PUBLIC PARTICIPATION

MUST THINK THROUGH:

SKILLS

TIME

INTERESTS


PRIORITIES

PARTICIPATING DOES NOT EQUAL EFFECTIVENESS  
SAME FOR INDUSTRY

CAVEAT: THOUGHTS FROM ONE PERSPECTIVE



# TEN ASPECTS OF EFFECTIVE PUBLIC PARTICIPATION

1. AGENCIES' ATTITUDE TOWARD CITIZENS  
A LOVE-HATE RELATIONSHIP
  2. GETTING IN THE LOOP  
IDENTIFYING THE "LOOP"  
RECEIVING NOTICE  
COMMENTING  
STAYING INVOLVED AT ALL STEPS  
BUT: THIS IS JUST THE BEGINNING
  3. BEYOND COMMENTING  
TAKING EFFECTIVE POSITIONS: FORMULATING  
AND PRESENTING
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# TEN ASPECTS (CONT.)

## 4. RECOGNIZING THE ONGOING NATURE OF AIR QUALITY REGULATION

ISSUES RECUR

PROCEEDINGS OCCUR IN PHASES

THE SAME PEOPLE ARE INVOLVED

YOUR REPUTATION IS IMPORTANT

HONESTY / KNOWLEDGE



# TEN ASPECTS (CONT.)

5. THE IMPORTANCE OF EXPERTISE  
TWO “LEVELS” OF PARTICIPATION:  
(1) ENDORSING/ OPPOSING  
(2) AFFECTING THE OUTCOME

TO AFFECT OUTCOME: NEED EXPERTISE IN  
THE PARTICULAR AREA  
TECHNOLOGY / INDUSTRY /  
ECONOMICS  
HOW TO GAIN EXPERTISE  
SOME AREAS EASIER THAN OTHERS

# TEN ASPECTS (CONT.)

## 6. INTERPERSONAL RELATIONS

“ALL POLITICS IS LOCAL”

RELATIONSHIPS MATTER (AS IS ALWAYS THE CASE)

RELATIONSHIPS WITH: BOARD; STAFF; OTHERS

## 7. IMPORTANCE OF “STAYING POWER”

SEE: “ONGOING” ABOVE

EFFECTIVENESS WANES IF PARTICIPATION

IS SPORADIC

## 8. LEGAL AND NON-LEGAL ISSUES

THE DIVIDING LINE

THE NEED FOR BOTH KINDS OF EXPERTISE

# TEN ASPECTS: THE END

## 9. FUNDING

SEE ABOVE: (1) EXPERTISE (2) STAYING  
POWER

DON'T FORGET AGENCY FUNDS

## 10. EFFECTIVENESS AND COMPROMISE

HARDER FOR CITIZEN GROUPS THAN  
INDUSTRY

IMPORTANCE OF RATIONALES FOR YOUR  
POSITIONS

