

Environmental Law Series

A Legal Toolbox for Environmental Activists

Workshop II: Global Warming, Clean Air & Clean Water



<http://Angeles.SierraClub.org/conslegal>

Environmental Law Series

A Legal Toolbox for Environmental Activists

Federal vs. State Law & Jurisdiction

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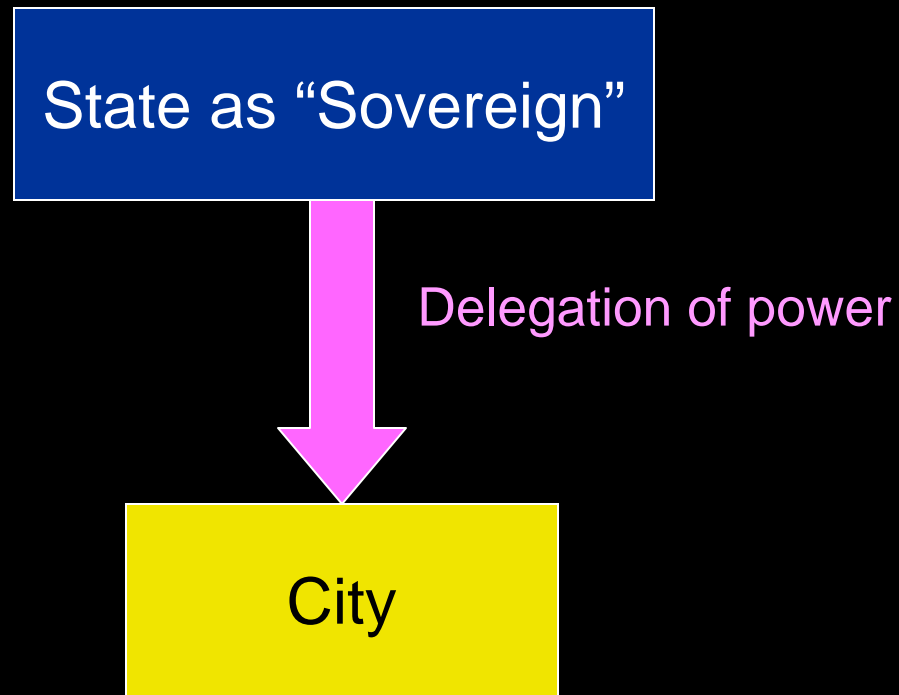
Outline

- Why is the U.S. legal system so complicated?
- Structure of U.S. legal system
- What is law?
- State vs. federal environmental laws
- State or federal court?

U.S. has a Very Complicated Legal System

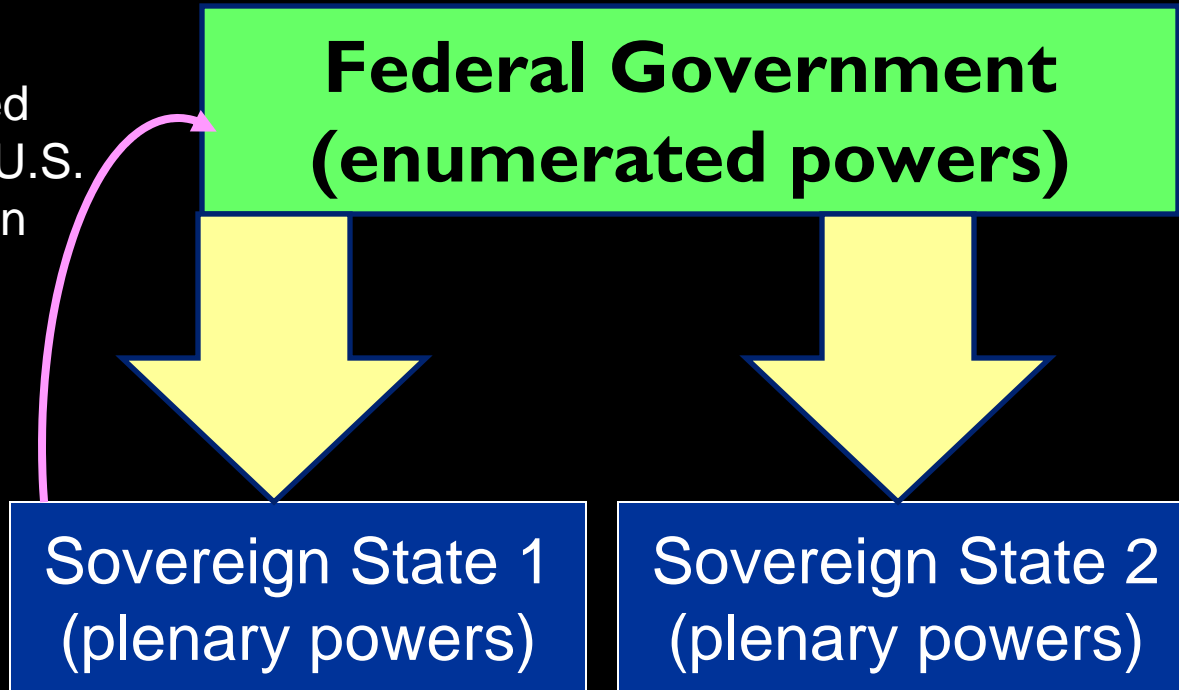
- Possibilities:
 - National government controls laws and courts
 - Federal system where states get power from national government
 - U.S. federal system – more complicated
 - European Union – still more complicated

State => Municipal Law



Structure of U.S. Legal System

Grant of
enumerated
powers in U.S.
Constitution



Federal law
supersedes
state law
where
applicable, e.g.
commerce
power

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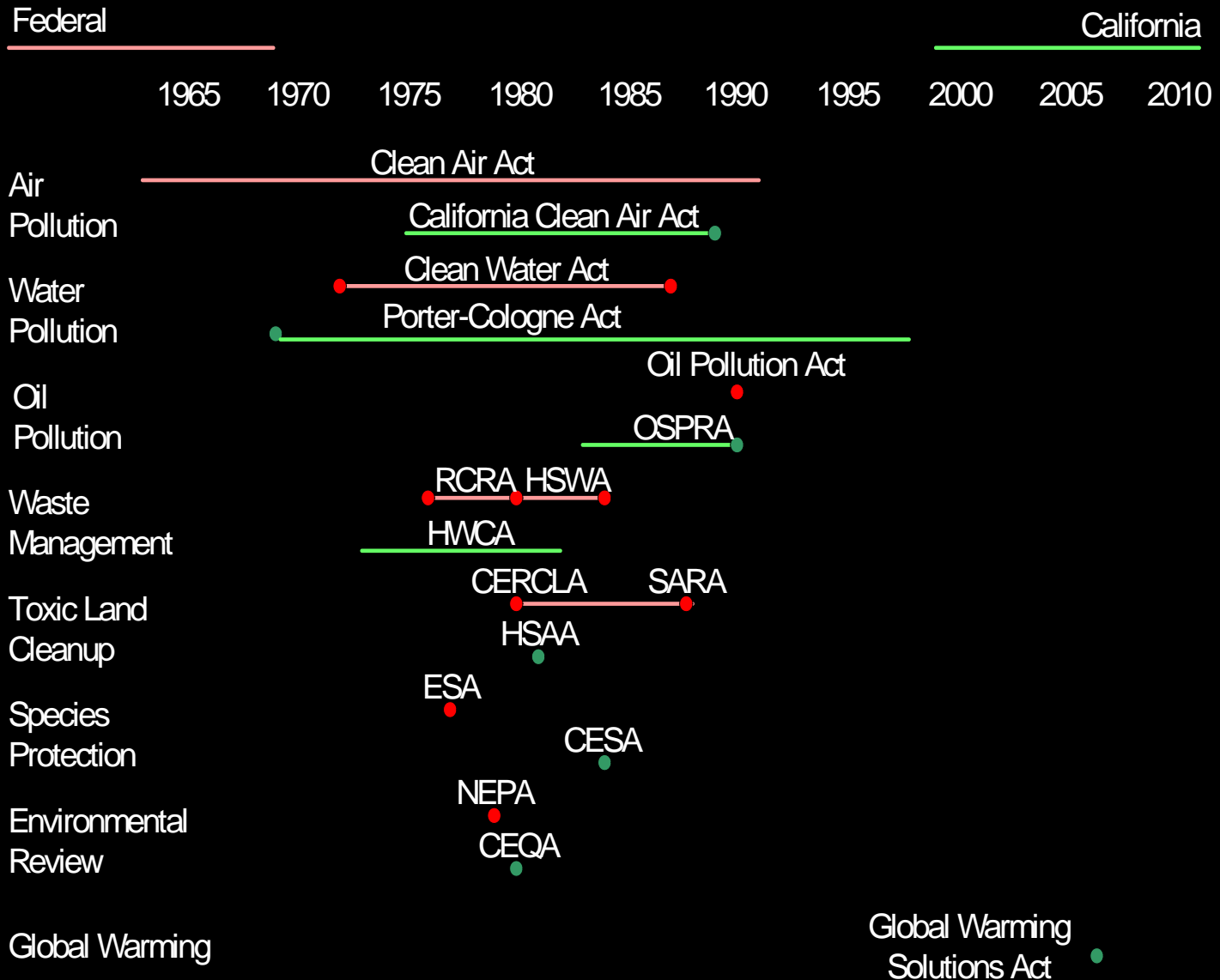
Modes of Interaction of Federal & State Laws

- Independence
 - Federal and state laws operate in different areas
 - Example: FOIA and California Public Records Act
- Cooperation
 - Federal and state laws designed to work together
 - Example: CWA and Porter-Cologne Water Quality Act
- Equivalence
 - Example: portions of CERCLA and HSAA
- Preemption
 - Federal law preempts state law
 - Example: CAA 42 U.S.C. § 7543(a) prohibition of state laws regulating motor vehicle emissions.

The Law

Federal	State	Local (city and county)
Constitution	Constitution	Charter (for city)
Statute (U.S. Code)	Statute (various California codes)	Ordinances (e.g. L.A. Municipal Code)
Code of Federal Regulations	California Code of Regulations	Local regulations
	Common Law	
Case Law (interprets and reconciles all of the above)		

Federal & California Environmental Laws



Federal v. State Courts

- State Courts
 - Courts of general jurisdiction
 - Can decide all cases, with certain exceptions
 - Can decide questions of state and federal law
- Federal Courts
 - Courts of limited jurisdiction, enabled by statute
 - Federal question jurisdiction (including most federal environmental laws)
 - Diversity jurisdiction – plaintiffs and defendants from different states, amount in controversy \geq \$75,000
 - Can decide questions of state and federal law

Sue in State or Federal Court?

- Do you have a choice?
 - Do both courts have jurisdiction?
- Factors to consider
 - Recent court decisions
 - Judges
 - Procedural differences
- Removal from state to federal court
- Might also have a choice of venue