EPA/450/2-81/017f

U.S. Environmental Protection Agency

Air Pollution Training Institute

COURSE SI:422

3rd Edition

AIR POLLUTION CONTROL ORIENTATION COURSE

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Unit 6

Air Pollution Law

EPA/450/2-81/017f

United States
Environmental Protection
Agency

Air Pollution Training Institute
MD 20
Environmental Research Center
Research Triangle Park NC 27711

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Air

APTI
Course SI:422 3rd Edition
Air Pollution Control Orientation Course

Unit 6
Air Pollution Law

Prepared By:
Northrop Services, Inc.
P. O. Box 12313
Research Triangle Park, NC 27709

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EPA Project Officer
R. E. Townsend

United States Environmental Protection Agency
Office of Air, Noise, and Radiation
Office of Air Quality Planning and Standards
Research Triangle Park, NC 27711

This is one of nine self-instructional units in the Air Pollution Control Orientation Course SI:422.

This unit consists of a cassette tape and this flip-book, which you will use simultaneously.

Turn the page and read the tips on effective use of this material.

Tips for Effective Use of This Material

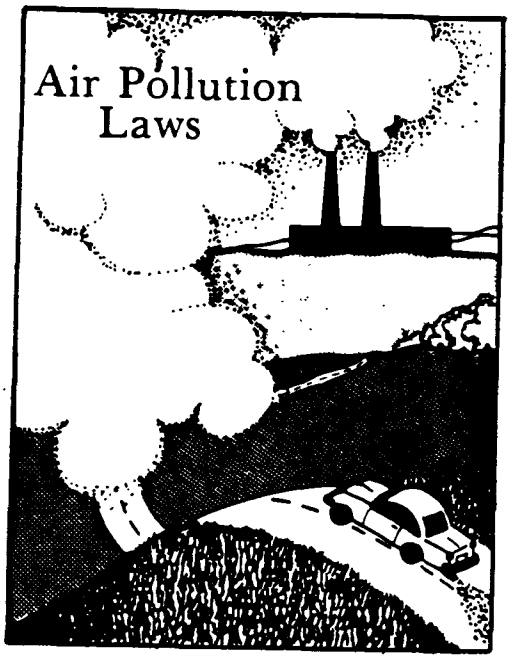
1. Listen to the recorded script while you go through this flipbook. The recorded portion is coordinated with the flipbook. Wait for the tape to finish the details of one point before studying the next point on the page.
2. When you hear a "beep" on the tape, direct your attention to the next page in the flipbook.
3. Pay attention to both words and pictures—they both convey important information. The flipbook will usually summarize main points or give examples.
4. Stop the tape at any point if you wish to spend more time reading a page in the flipbook. Rewind the tape if you wish to review a portion of the script.
5. Review the lesson objectives before answering the questions at the end of each lesson. Ask yourself whether you have mastered the information indicated in the objectives.
6. Answer the questions. They will help you assess your progress in mastering the course materials.
7. Check your answers. The correct responses can be found on the page(s) following the question page.
8. If you answer a question incorrectly, review the flipbook material covering the subject matter. **Now turn on the tape recorder and begin lesson I.**

Lesson I: Introduction to Air Pollution Law

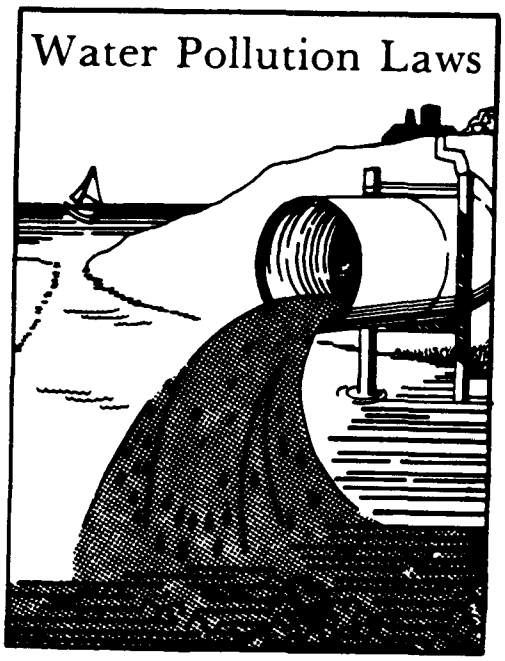
Objectives

1. Describe, in terms of the way they are developed, the difference between common law and statute law.
2. Identify the definition of "tort."
3. Identify the definition of "plaintiff."
4. Differentiate between a "trespass" and a "nuisance."
5. Give an example of "balancing the equities" as it applies to air pollution law.

Before passage of the 1970 Clean Air Amendments



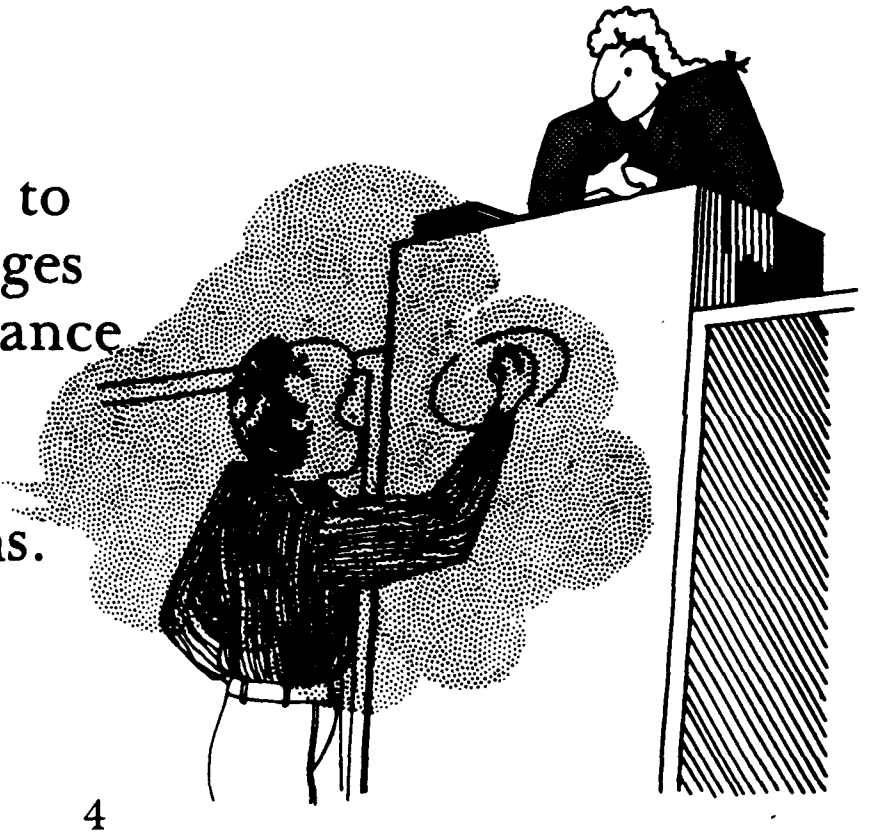
were sometimes similar to



- Concern with effects of water-borne waste has been developing since the Middle Ages

- Recognition of air pollution as a major threat to health and welfare developed much later

There **have** been ways for citizens or public officials to go to court to get payment for damages or relief from the nuisance of air pollution. And there have even been government regulations.



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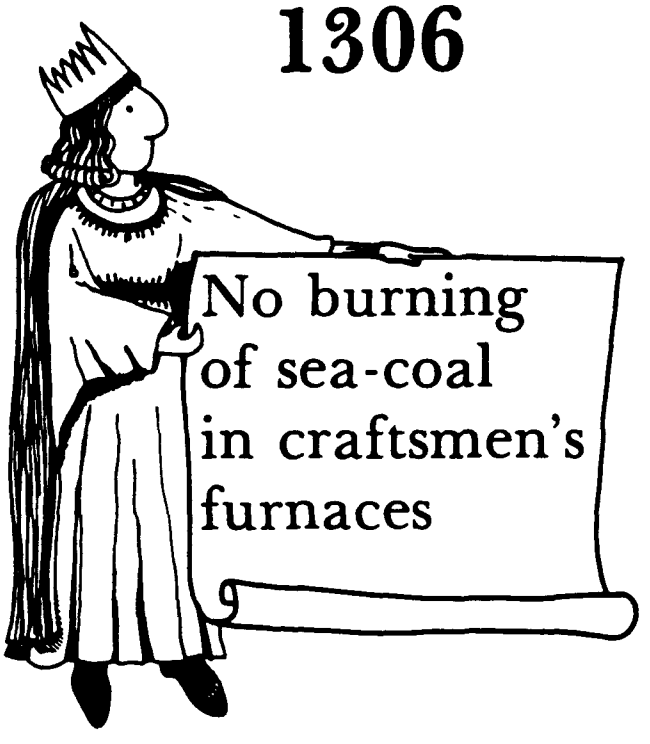

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Significant events leading to the current federal air pollution control program

- 1906 (Britain) ___ Alkali Works Regulation Act

- 1880s and after ___ Various local smoke control ordinances (United States)

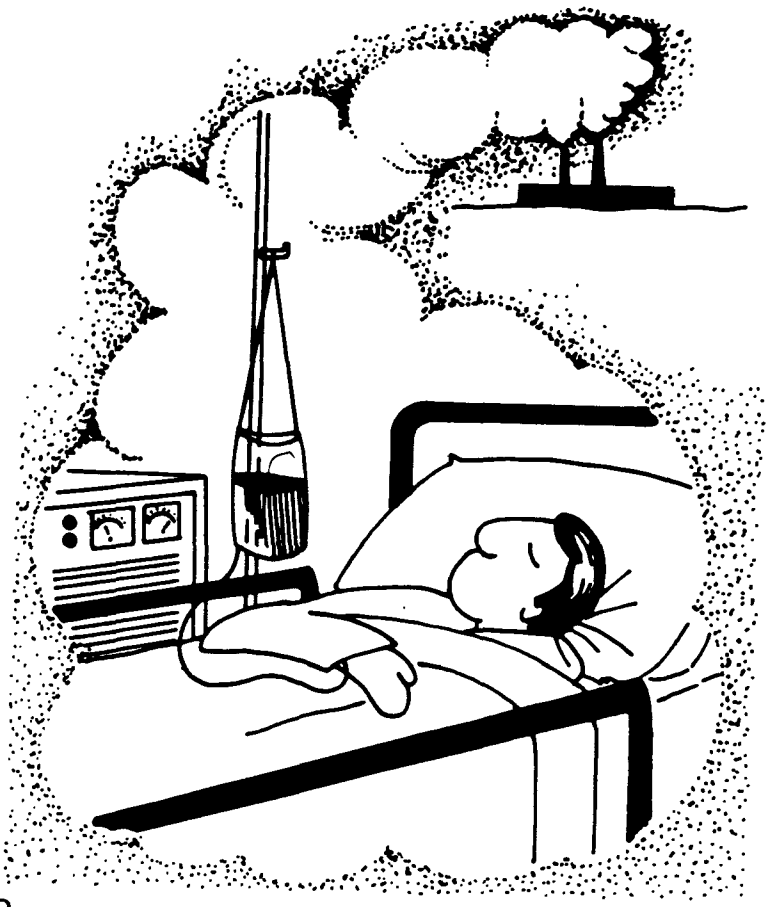
Water Pollution

- Tends to be more noticeable and immediate in its effect
- Often can be recognized before it reaches crisis proportions

Air Pollution

- Was often disregarded as a health and safety problem
- May not be properly appreciated until it reaches crisis proportions

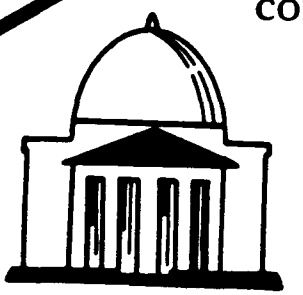
The health costs of air pollution traditionally have been greatly underestimated



Common Law

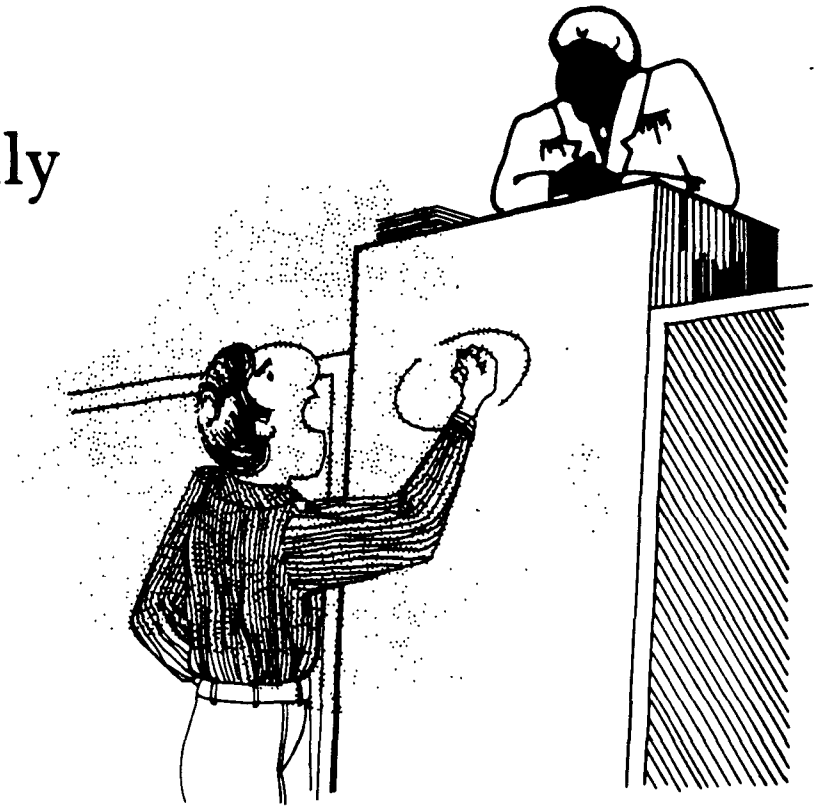
The body of law that has grown out of tradition and usage, as stated in court decisions – usually concerns private rights.

The body of law that has been passed by legislatures and stated in formal documents – usually concerns rights of the general public



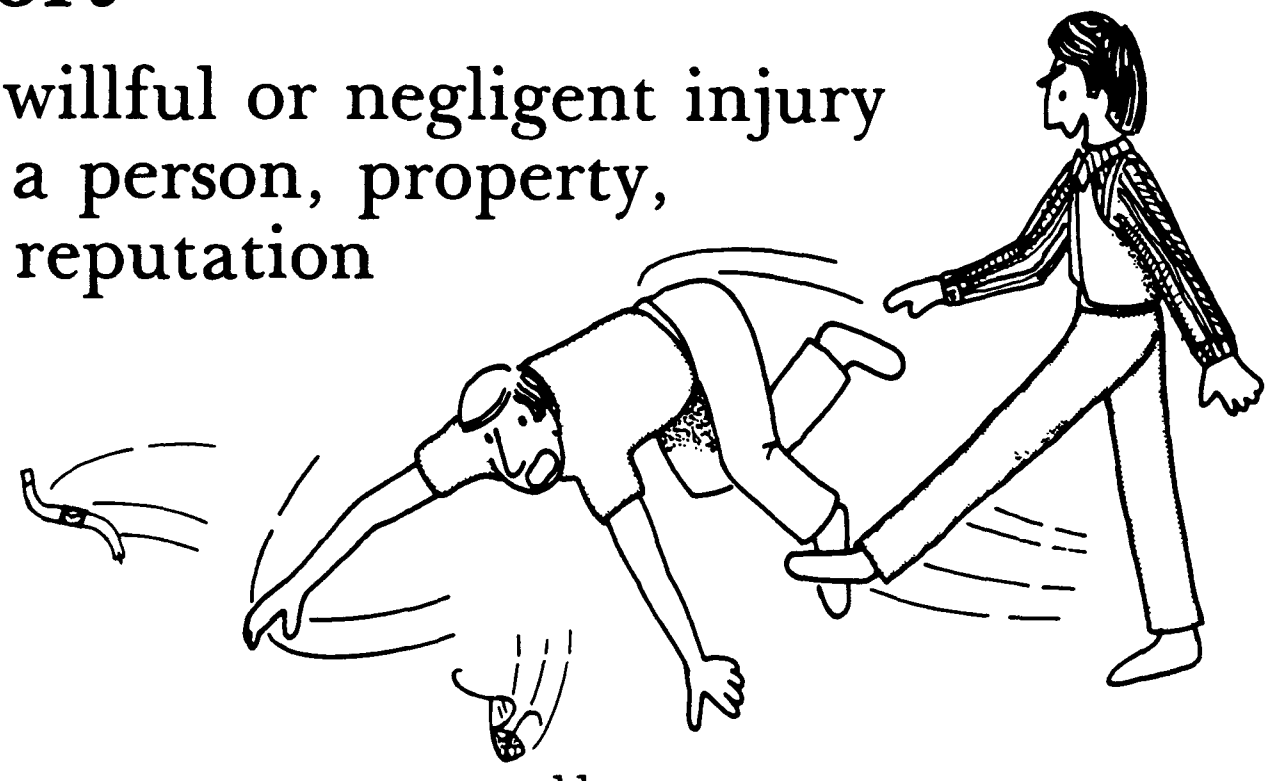
Statute Law

Statute laws usually do **not** take away a citizen's right to sue



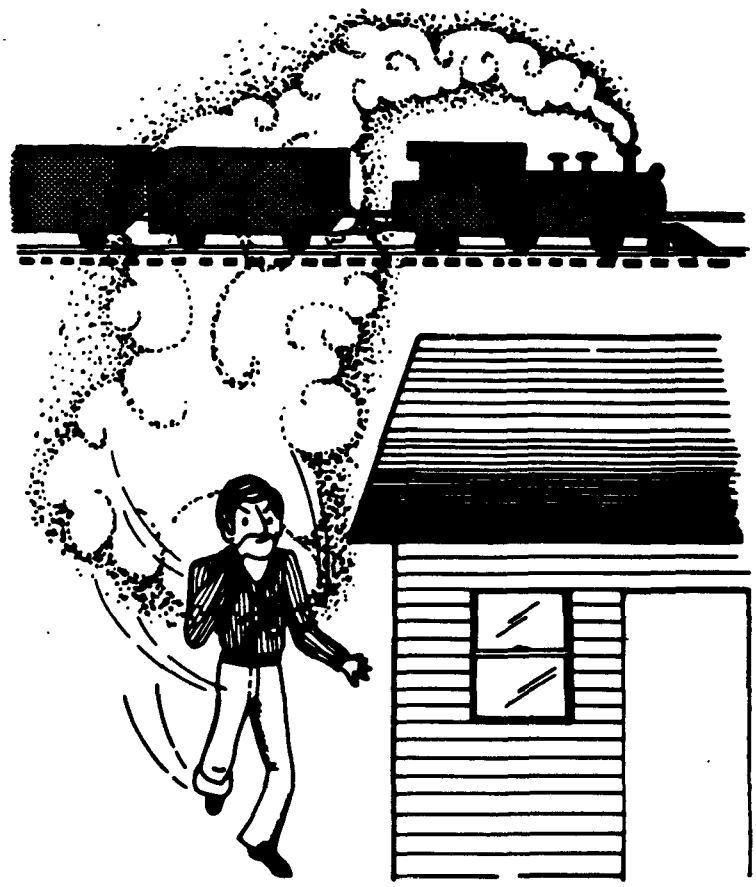
Tort

A willful or negligent injury to a person, property, or reputation



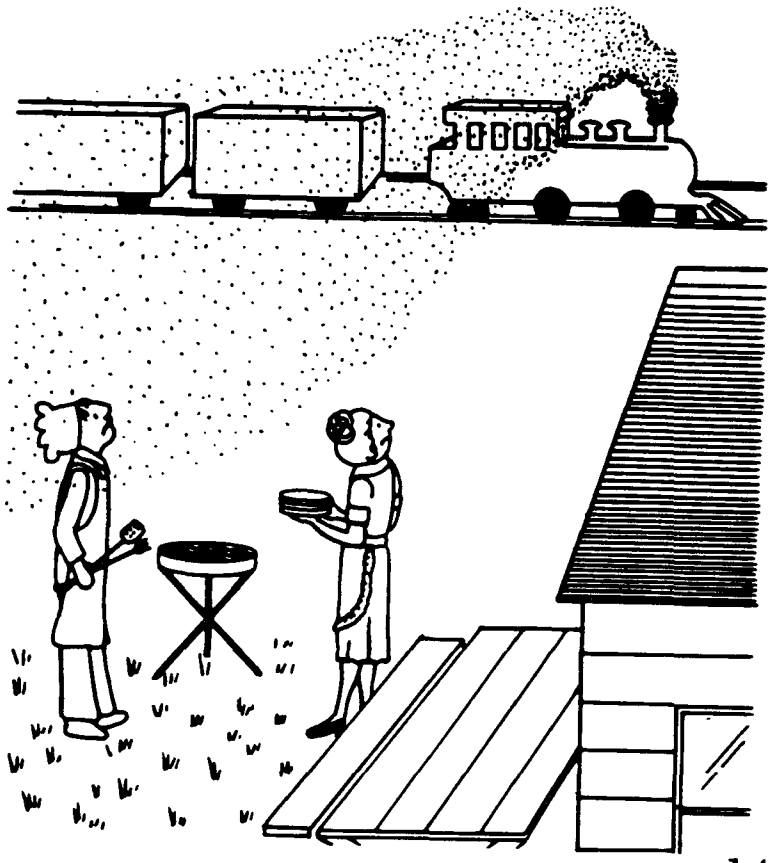
Plaintiff

The offended party



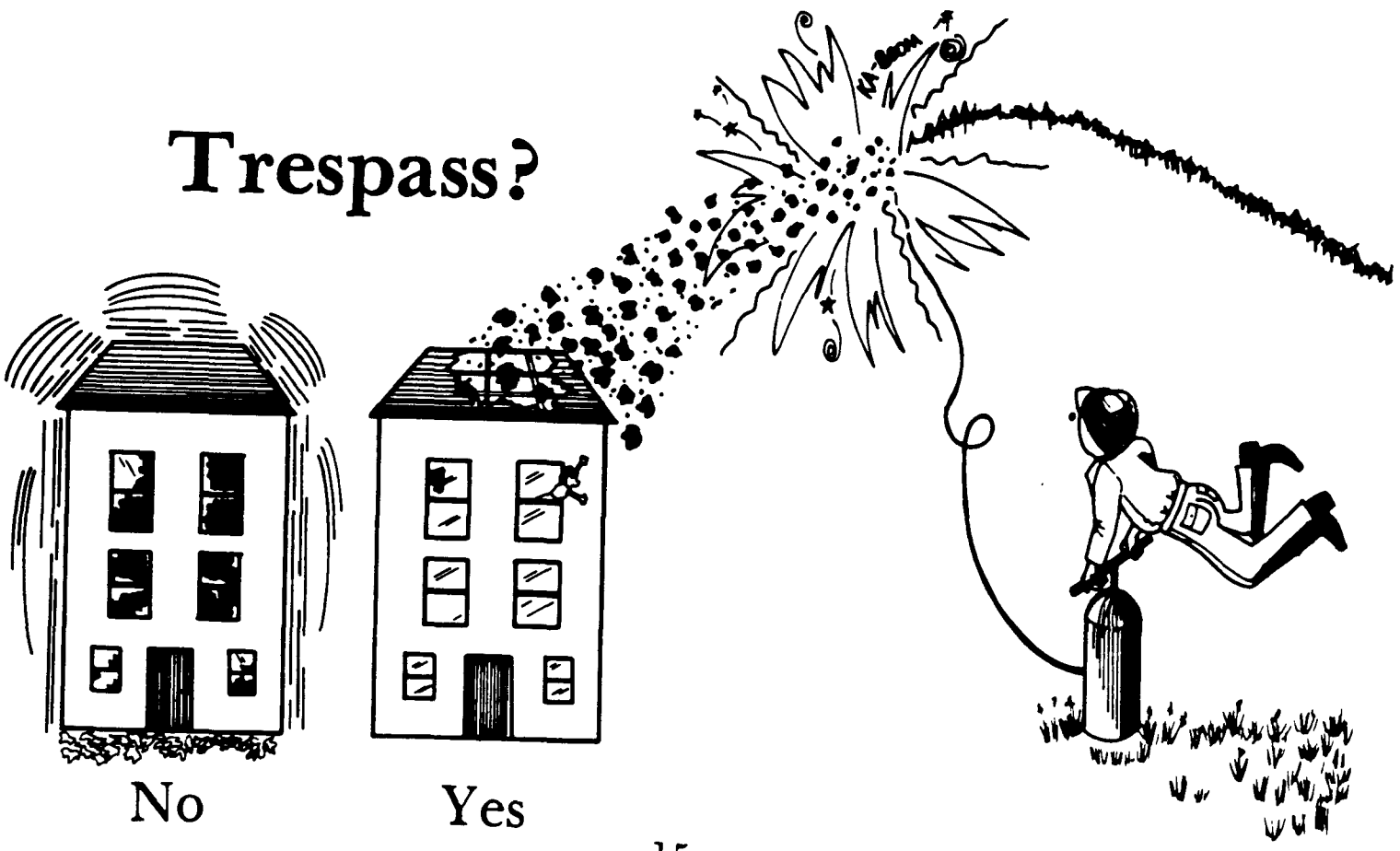
Trespass

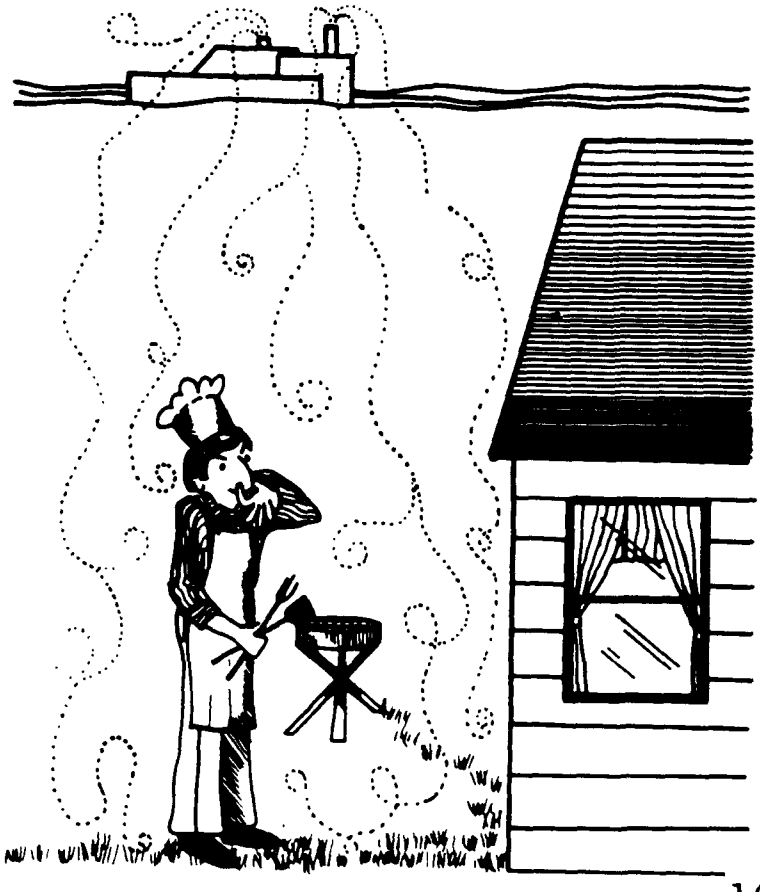
Unlawful act committed on the person, property, or rights of another



In this case the trespass was committed **not** by the **train**, which had a right to be where it was, but by the **fly ash**, which was considered to have invaded the possessor's land.

Trespass?

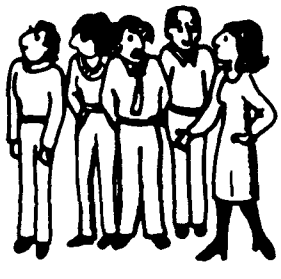




Nuisance

Unlawful invasion of a possessor's interest in the reasonable **use** and **enjoyment** of property

Private Nuisance



Only the plaintiff—or a small, well-defined class of plaintiffs—bothered

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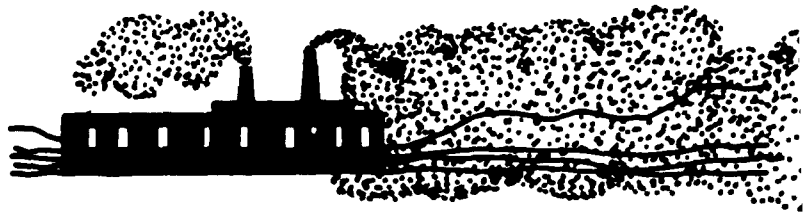
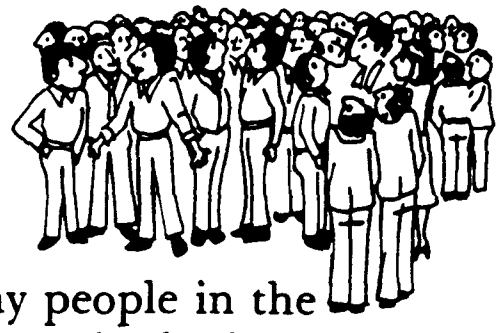
Plaintiff(s) could take action

Public Nuisance





Many people in the community bothered

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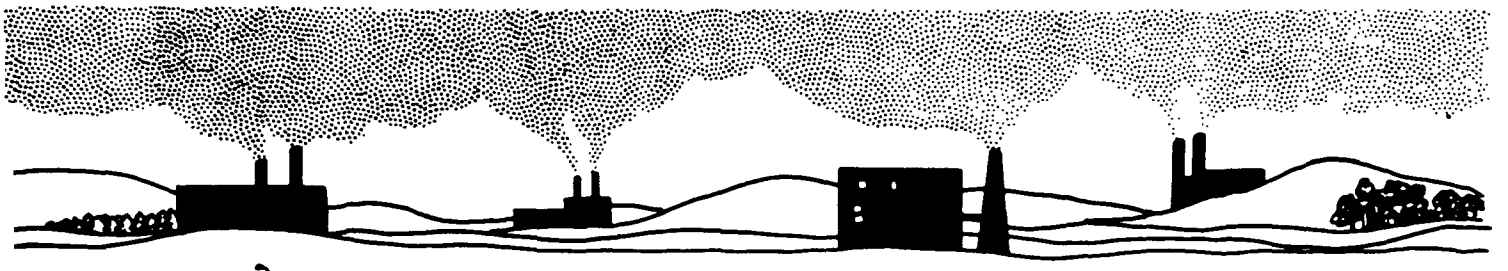
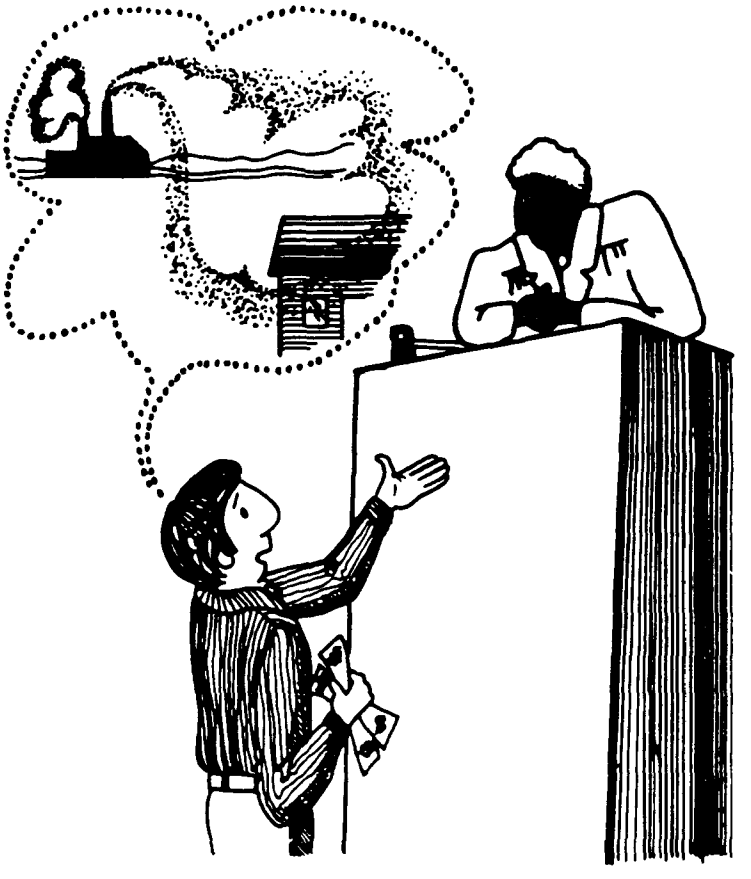
Only government could take action

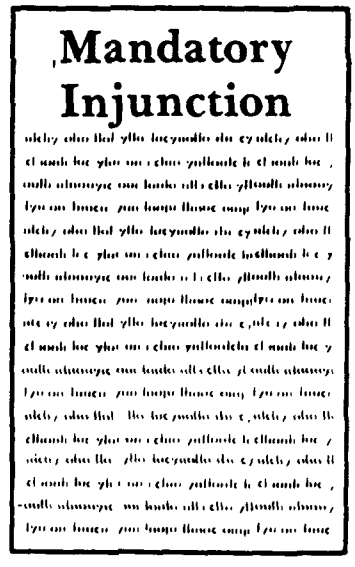


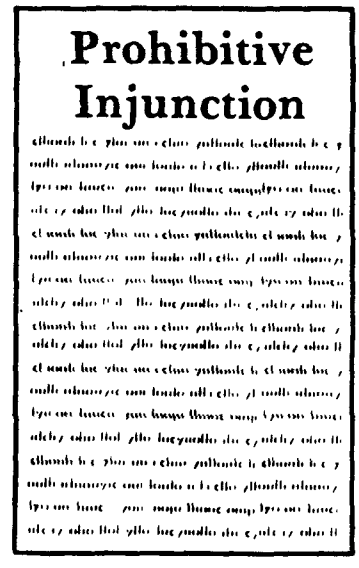
It is often very difficult for a citizen to establish what proportion of the pollution causing his injury came from any individual source

Even if he is compensated for damage already done, a person injured by air pollution usually wants to stop future actions causing such injuries



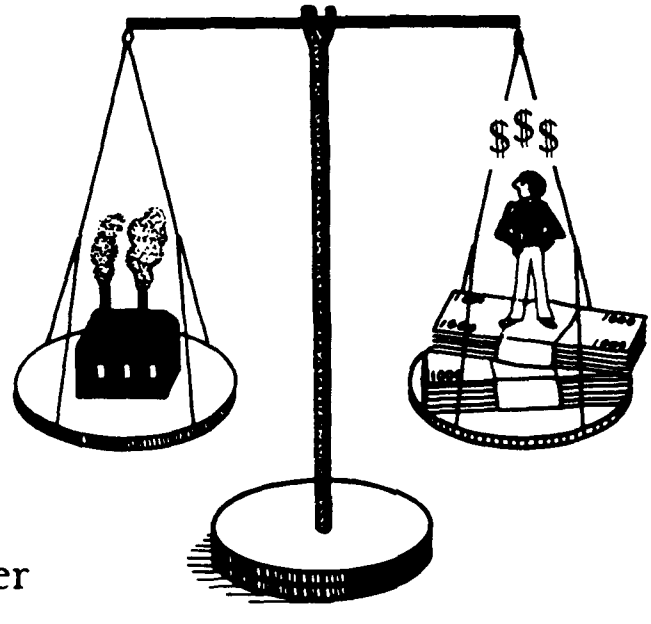
Courts have authority to issue orders requiring or prohibiting certain actions





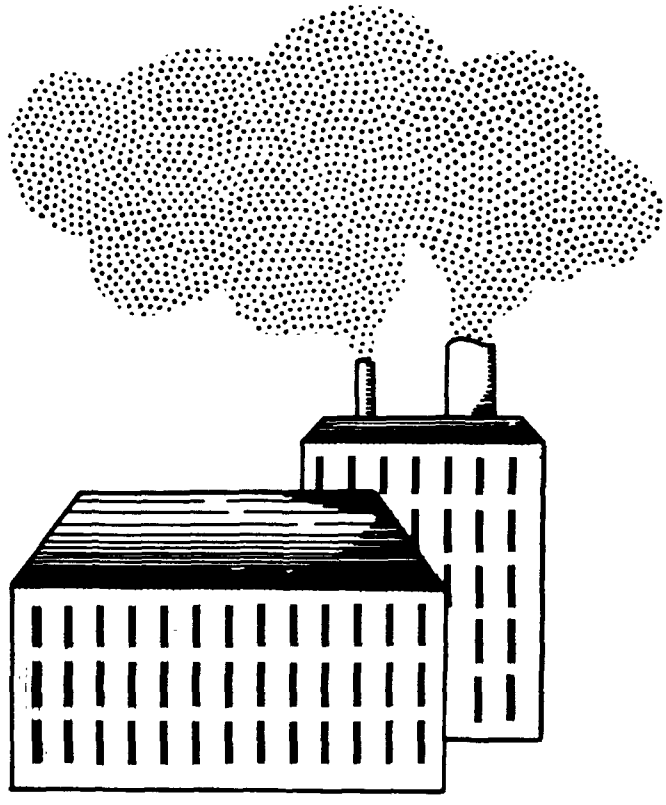
Balancing the Equities

If the cost to the polluter of stopping an action was substantially greater than the relative injury to the plaintiff, the court might have refused to prevent the polluter from continuing.

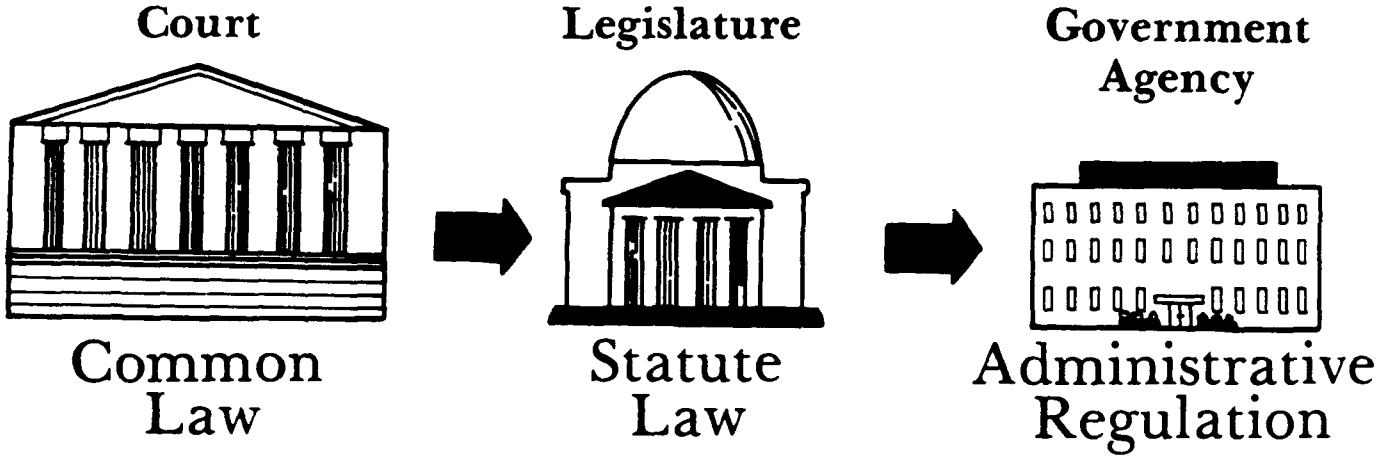


Instead it might have limited the plaintiff's remedy to dollar damages.

Early governmental efforts to deal with air pollution problems dealt mostly with the kinds of problems that forced themselves on public attention.

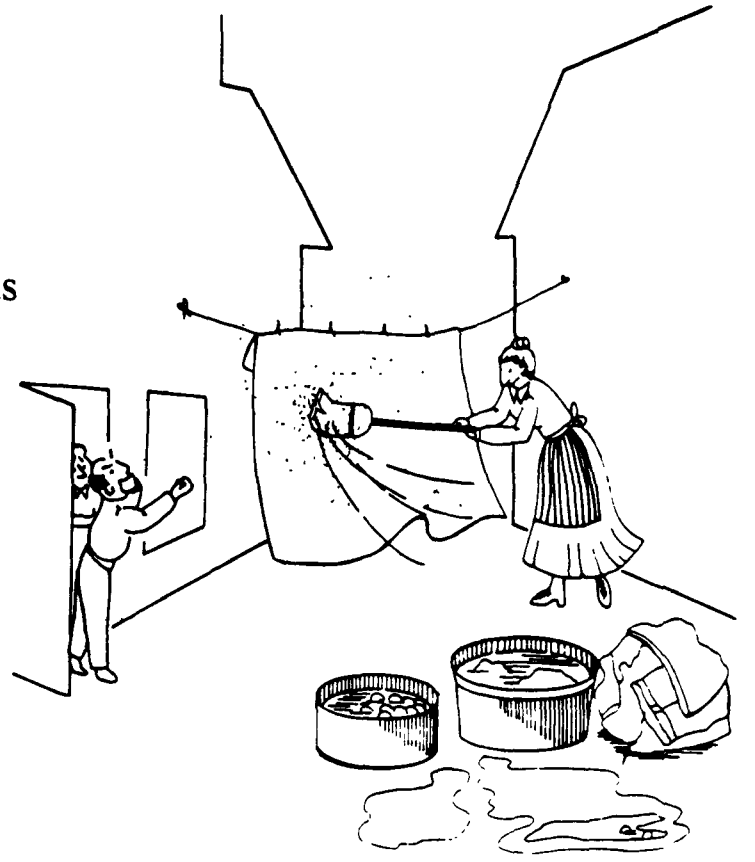


General Trend

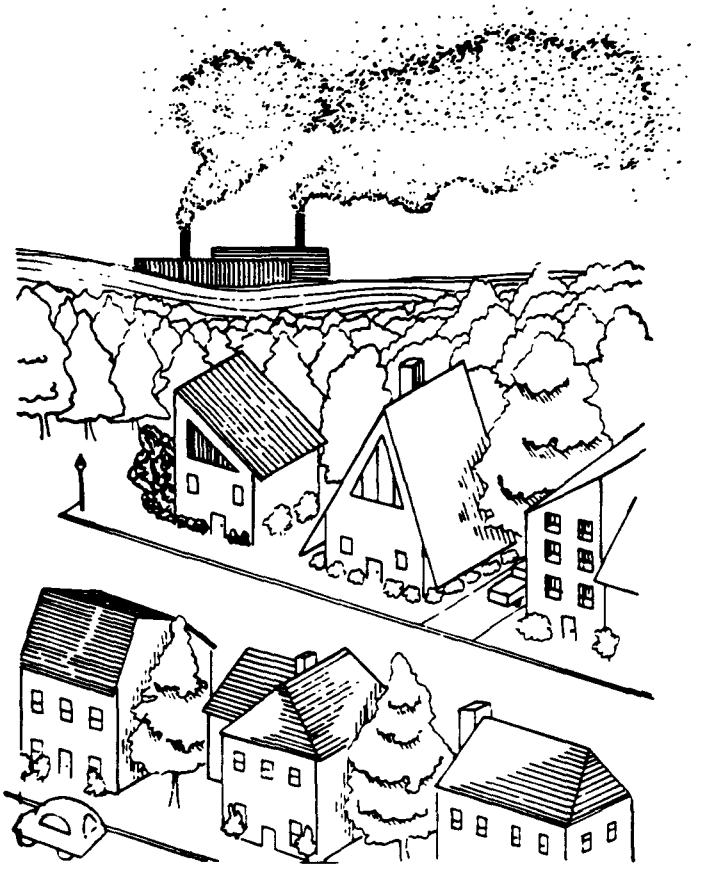


Boston, 1901

"No carpet, rugs, mats, or similar articles shall be beaten in any street or public place, and no carpets, rugs, mats, old garments or similar articles shall be beaten or cleaned upon or near inhabited buildings, unless reasonable precaution is taken to prevent dust particles or portions of said articles from being blown, scattered or otherwise passing from the place where such beating or cleaning is carried on."



Until the 1950s, most smoke and odor legislation was at the municipal level



Lesson I
Questions

1. Describe—in terms of the way it is developed—the difference between common law and statute law.
2. The phrase "a willful or negligent injury to a person, property, or reputation" defines which of the following terms?

a. episode	c. equity	e. tort
b. moot point	d. negligence	f. none of the above

3. In a law suit, the "offended party" is known as a

a. plaintiff	c. defendant	e. jurist
b. prosecutor	d. witness	f. none of the above

4. If a road construction company is blasting rock in a road construction area, and the falling rocks knock a hole in the roof of a nearby house, would the owner of the house have grounds for a "trespass" suit?
5. Give an example of "balancing the equities" as it applies to air pollution law.

Answers are on next page.

Lesson I
Answers

1. Common law has grown out of tradition and usage, as stated in court decisions. Statute law has been passed by legislatures and is stated in formal documents.
2. e. tort
3. a. plaintiff
4. yes
5. If the cost to a polluter of stopping an action is substantially greater than the relative injury to the plaintiff, the court might refuse to keep the polluter from continuing his action. Instead it might award only dollar damages to the injured party.

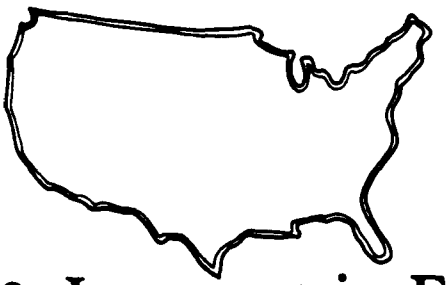
After checking your answers, please turn on tape recorder.

Lesson II: State & Federal Approaches

Objectives

1. Identify the type of approach used in the national air pollution control program in the United States.
2. List the elements of the three-step process used in the national air pollution control program in the United States.
3. Identify the three factors required for effective enforcement of emission regulations.
4. Name the legal event that transferred Federal air pollution control functions to EPA, and the principal guiding document for a coordinated national program of air pollution prevention and control.
5. Describe the significance of the reorganization of Federal environmental programs that took place in 1970.
6. Identify the persons or agencies with primary responsibility for prevention and control of air pollution at its source, according to Title I of the Clean Air Act (as amended).

7. Identify the significance of the *Sierra Club* vs. *Ruckelshaus* court decision of 1973.
8. Identify the name given the basic planning areas for which implementation strategies are developed.
9. Identify the characteristics of Air Quality Criteria Documents.
10. Identify the characteristics of Control Technique Documents.
11. Describe what is protected by primary and secondary air quality standards.
12. Identify the characteristics of National Ambient Air Quality Standards (NAAQS).
13. Identify the purposes of State Implementation Plans (SIPs).
14. Describe what is meant by Prevention of Significant Deterioration (PSD).
15. Describe what States must do regarding the maintenance of National Ambient Air Quality Standards.

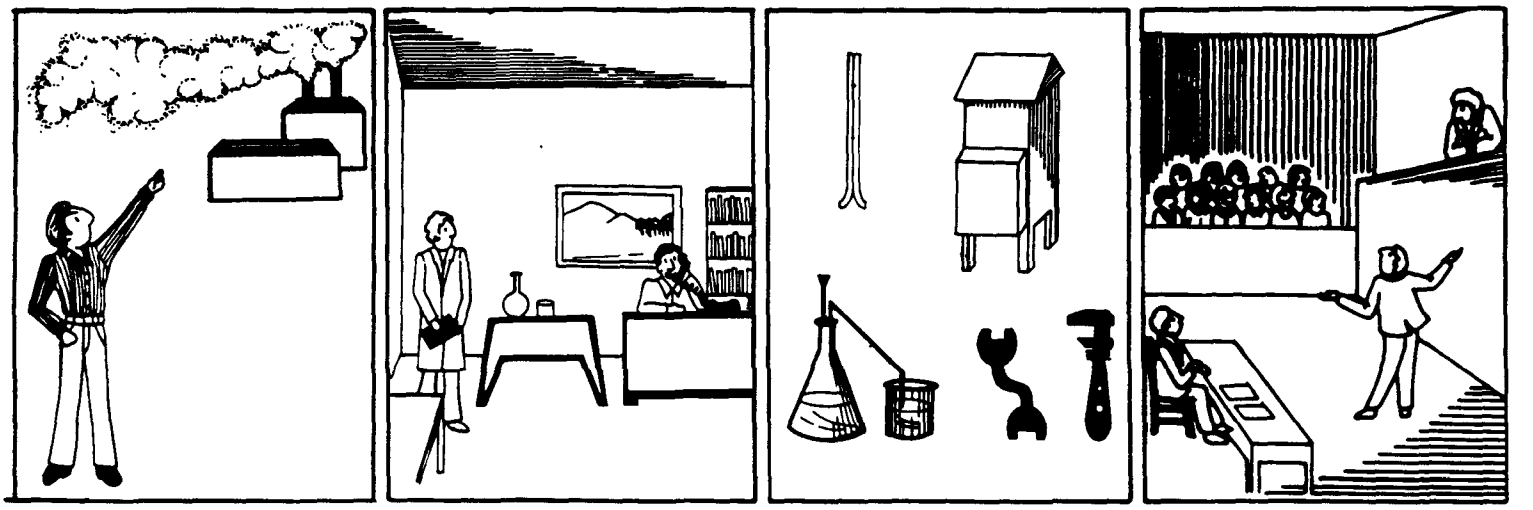


United States Air Pollution Program

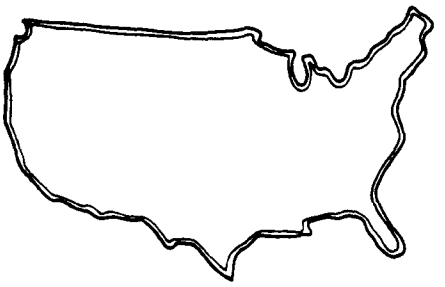
- Is set out in Federal Clean Air Act
- Follows air quality management approach
- Is a three-step process
  1. Preparation of air quality criteria documents and establishment of ambient air quality standards
  2. Establishment of emission limitations
  3. Setting up & operating of limitations enforcment systems

Ambient air quality standards are not readily enforceable by themselves because they do not provide a *measure* that can be applied to individual pollutant sources, so **we must establish emission limitations.**

Even with enforceable emission regulations, effective enforcement requires...



The will to enforce | Personnel support | Technical support | Court system to determine and punish violators



1. Preparation of air quality criteria documents and establishment of ambient air quality standards
2. Establishment of emission limitations
3. Setting up & operating of limitations enforcement systems

Coordinated national concern with air pollution began in 1955 with the

Air Pollution Control Act

- Mandated a Federal research program to investigate the health & welfare effects of air pollution
- Authorized the Federal government to provide technical advice & assistance to the States

The Clean Air Act—1963

- Continued provisions for research and technical assistance
- Secretary of HEW authorized to
  - make grants to State and local agencies
  - publish nonmandatory air quality criteria
  - encourage and report efforts to control motor vehicle exhaust pollution
  - intervene when air pollution endangered health and welfare, and a State was failing to cope with the situation
  - in cases involving interstate air pollution, call a conference of all affected parties to obtain agreement about a solution

1965 Amendments—Clean Air Act

- Authority given to Secretary of HEW to publish and enforce Federal emission standards for new motor vehicles

Air Quality Act—1967

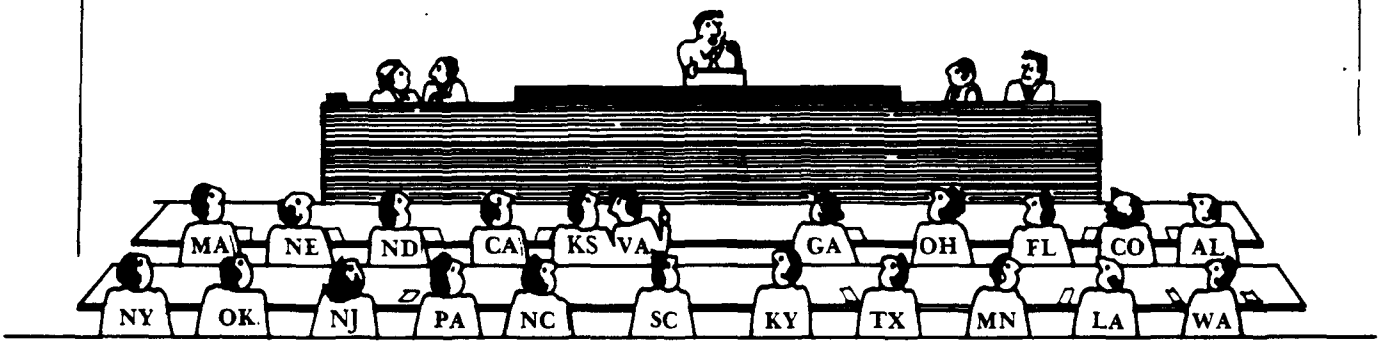
Secretary of HEW

- charged with a specific duty to research and issue air quality criteria
- required to designate broad atmospheric areas and to designate Air Quality Control Regions
- directed to issue information on air pollution control techniques
- directed States to set ambient air quality standards and prepare detailed plans for their implementation

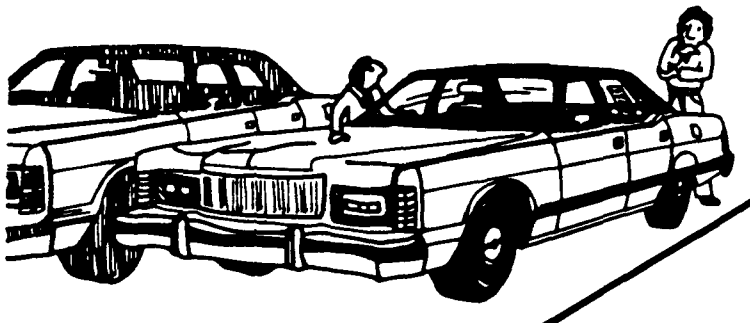
Continued the policy that State and local governments had the major responsibility for establishing and enforcing air pollution standards

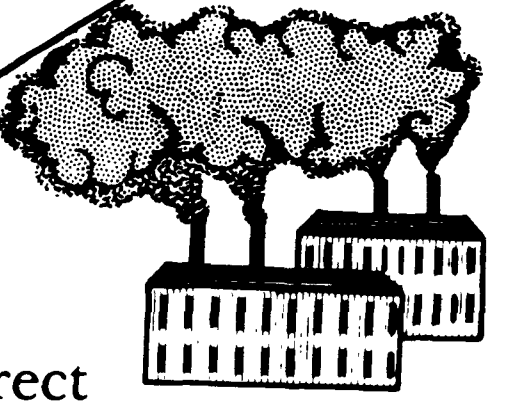
1967 Air Quality Act

The Secretary of HEW could ask the Attorney General to begin civil actions to enforce standards but the basic Federal enforcement tool was still the **interstate-federal conference**



The Federal government was responsible for enforcement of standards concerning new motor vehicles,





but broader direct enforcement authority was reserved for extraordinary situations

1970
probably the most important legal events in the federal air pollution control field

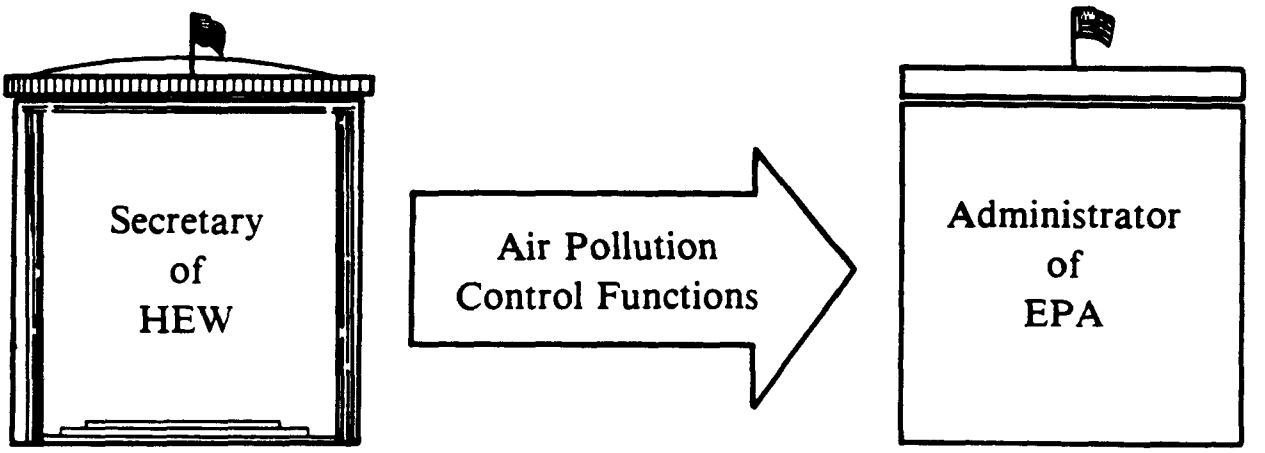
President's Reorganization Plan Number 3

Clean Air Act Amendments

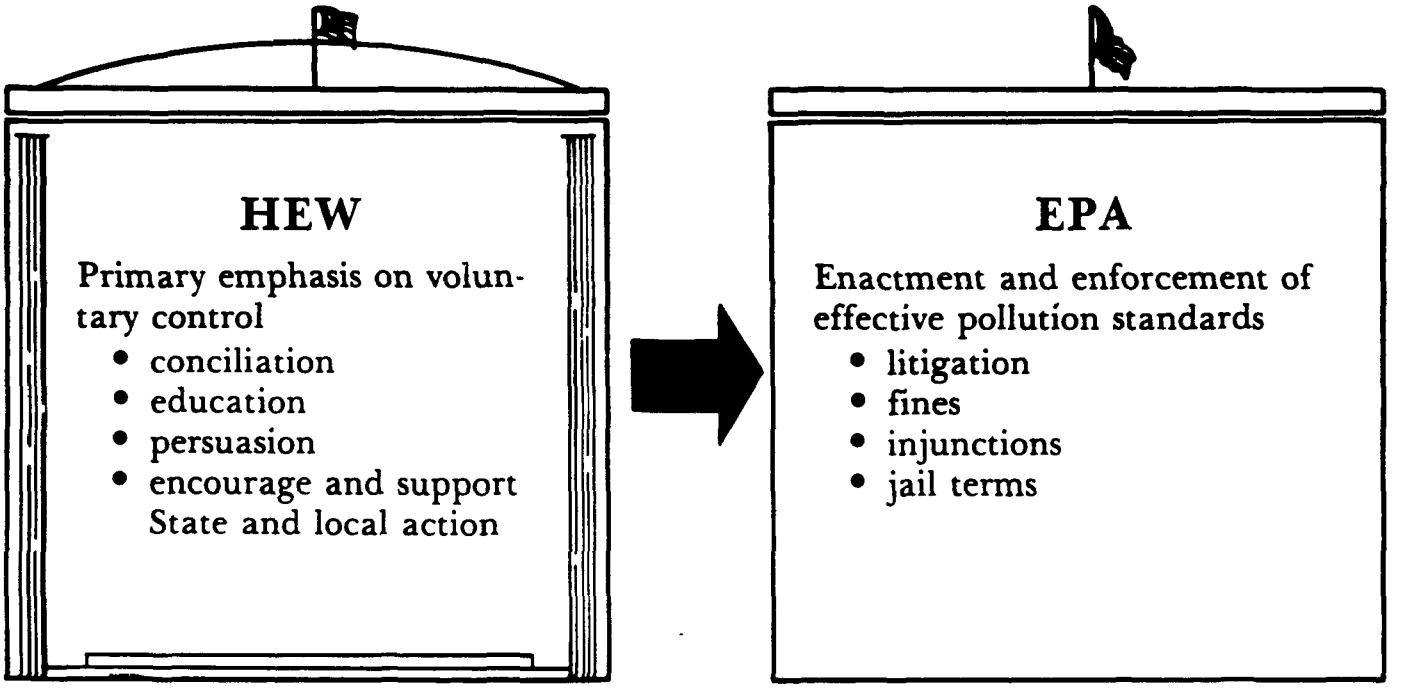
40

Reorganization Plan No. 3

all federal air pollution control functions were transferred to EPA



Significance of Reorganization



Shifted emphasis toward stringent enforcement remedies

1970 Clean Air Act Amendments

Established the "Clean Air Act (as amended)" as the principal guiding document for a coordinated national program of air pollution prevention and control

Clean Air Act

Title I:	Section 101 Section 102, etc.
Title II:	Section 201 Section 202, etc.
Title III:	Section 301 Section 302, etc.

Title I: **Air Pollution Prevention & Control**
Contains both the general program requirements and authorizations, and the provisions for control of stationary sources

Title II: **Emission Standards for Moving Sources**
Deals with motor vehicles and aircraft

Title III: **General**
Deals with administration of the Act and technical legal matters

Title I
Section 101
Congressional Findings and Purposes

- Gives the framework for interpreting the rest of the act
- States that "the prevention and control of air pollution at its source is the primary responsibility of State and local governments."

1973
Sierra Club vs. Ruckelshaus

Administrator of EPA must issue regulations to prevent the significant deterioration of air quality that is already better than national standards

This was such a vital question, with such far-reaching implications for growth, that it was dealt with more explicity and at considerable length in the 1977 Amendments.

Title I
Section 107

States required to designate Air Quality Control Regions (AQCRs)

- The basic planning areas for which implementation strategies are developed
- May be **intra**state or **inter**state

Overview of AQCR Development

1967:	First provisions for establishment of Air Quality Control Regions
1970:	Added significance to designations
	Required complete territorial coverage by the States by April 1971
	Provided that the Federal government would designate AQCRs in areas not designated by States
1977:	Required States to submit by early December 1977 a list of their AQCRs not meeting standards
	Stressed that AQCR boundaries may and should be changed when appropriate

Title I
Section 108

Provides for preparation of two kinds of documents

- Air quality criteria documents
- Control technique documents

Air Quality Criteria Documents

- Describe air pollutant concentrations and exposure times which produce specific kinds and degrees of damage to human health or welfare
- To be used by Federal government as bases for setting national ambient air quality standards

Control Technique Documents

- Describe the "state of the art" in controlling emissions of the criteria pollutants
- To be used by the States in developing emission control regulations

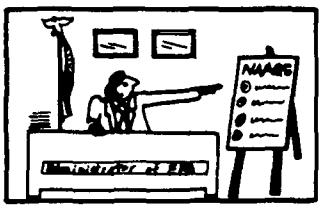
Both Air Quality Criteria Documents and Control Technique Documents were originally prepared for particulate matter, sulfur oxides, oxides of nitrogen, carbon monoxide, photochemical oxidants, and non-methane hydrocarbons. Document for lead was added later.

Title I
Section 109

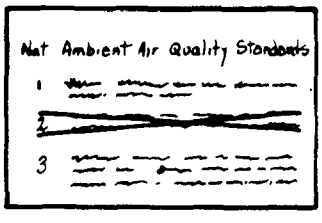
- Required EPA to set two types of National Ambient Air Quality Standards (NAAQS)
  - Primary—to protect the public health
  - Secondary—to protect the public welfare
- These standards apply throughout the country
- States **could** adopt ambient air quality standards stricter than the Federal ones, but State standards **less** strict than Federal standards would be overridden by the Federal standards

National Ambient Air Quality Standards (NAAQS)

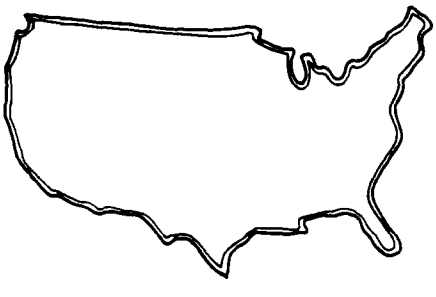
Pollutant concentrations in ambient air



Not spelled out in law



Subject to additions and corrections



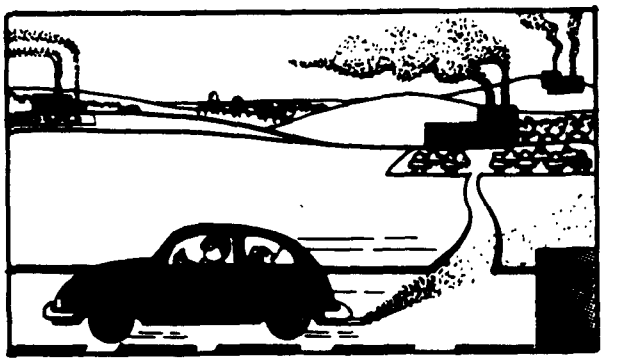
Air Quality Management

1. Preparation of criteria documents and establishment of ambient air quality standards
2. Establishment of emission limitations
3. Setting up and operating of limitations enforcement systems

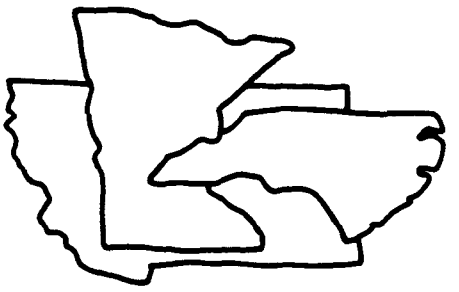
Title I.
Section 110

Since *direct* control of pollutants in the ambient air is not possible...

Strategies must be spelled out for *controlling* emissions from pollution *sources*



Central mechanism for doing this is the
State Implementation Plan



State Implementation Plans (SIP)

- Whenever a new NAAQS is adopted, each State is required to adopt and submit (within 9 months) to the Administrator of EPA a State Implementation Plan
- Plan must provide for implementation, maintenance, and enforcement of the standard in each air quality control region in the State
- Primary (health-related) standards—to be complied with as quickly as practicable, but no later than 3 years after plan was approved by EPA
- Secondary (welfare-related) standards—to be complied with within a reasonable time

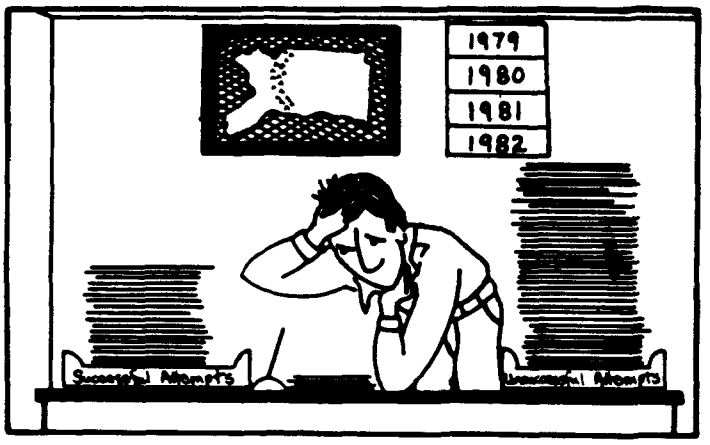
1975—1977

- EPA worked with States to ensure compliance by major sources, especially in those areas that were not yet meeting standards.
- Began a program to get SIP revisions which would bring the non-attainment areas into compliance as quickly as possible

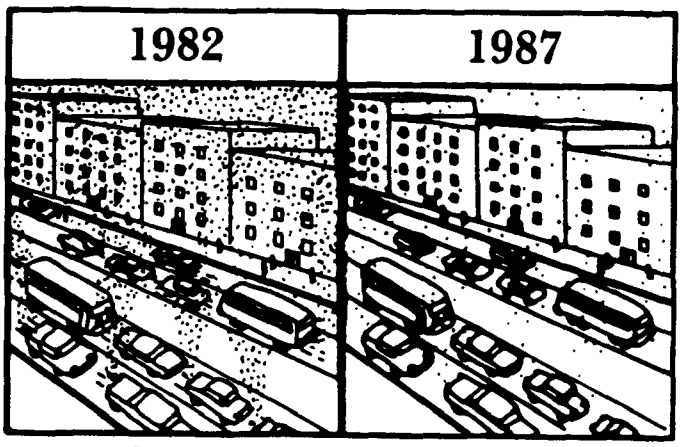
1977 Amendments

- added a series of detailed requirements dealing with "Plan Requirements for Non-attainment Areas".
- required States to have submitted SIPs for their nonattainment areas by January 1979 and to provide for attainment of the primary standards by December 31, 1982 with "reasonable further progress" each year.

Carbon Monoxide and Photochemical Oxidant Control



If a State could show that it could not attain the standard by 1982 using "all reasonably available measures."

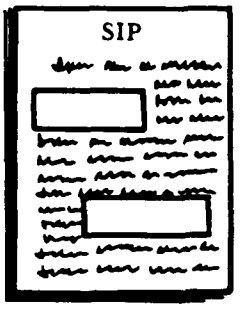


It could resort to a two-step plan

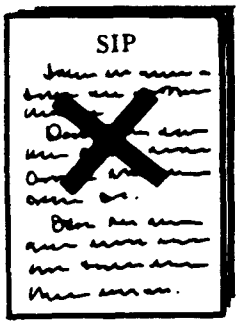
- application of all reasonably available measures by 1982
- final compliance by December 31, 1987

If

a State failed to produce all or part of an implementation plan



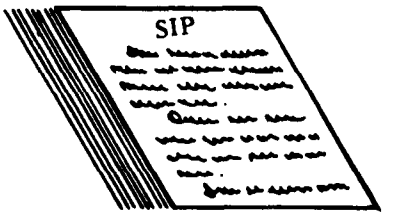
or



the Administrator of EPA disapproved all or part of a submitted SIP

Then

within 6 months, EPA had to promulgate its own regulations replacing or supplying the defective or missing parts



According to 1977 Amendments

- Certain highway and air pollution control grants can be withheld for State failure to submit or implement approvable plan revisions

As a result of the Sierra Club case in 1973, the Administrator of EPA had to disapprove *all* implementation plans for not containing provisions for the Prevention of Significant Deterioration of existing air quality.

Title I
Sections 160—169
Prevention of Significant Deterioration (PSD)

- Required States to incorporate in their plans provisions for preventing significant deterioration of existing air quality

Maintenance of NAAQS

May 1973
States required to revise SIPs to include procedures "to ensure that emissions associated with projected growth and development will be compatible with maintenance of the national standards."

Lesson II
Questions

1. The U.S. uses a(n)_____ approach to air pollution control.
   a. reactive
   b. air quality management
   c. dictatorial
   d. casual
   e. voluntary
   f. none of the above
2. List the three steps of the air pollution control process used by the U.S.
3. Which of the following is (are) factors necessary for effective enforcement of emissions regulations?
   a. will to enforce
   b. strong police force
   c. personnel support
   d. technical support
   e. air quality standards
   f. none of the above
4. Name the legal event that transferred Federal air pollution control functions to EPA, and the principal guiding document for a coordinated national program of air pollution prevention and control.
5. What was the significance of the reorganization of Federal environmental programs that took place in 1970?

6. According to Title I of the Clean Air Act (as amended), "the prevention and control of air pollution at its source is the primary responsibility of_____".
   a. the U.S. Environmental Protection Agency
   b. U.S. citizens
   c. State and local governments
   d. the Federal government
   e. the President
   f. none of the above
7. According to which court decision did the Administrator of EPA have to issue regulations to prevent the significant deterioration of air quality that is already better than national standards?
   a. Brown vs. Los Angeles
   b. Sierra Club vs. Ruckelshaus
   c. EPA vs. California
   d. Rockland vs. Smith
   e. National Campers vs. Rahway
   f. none of the above
8. The basic planning areas for which implementation strategies are developed are called:
   a. Pollution Control Regions
   b. Deterioration Areas
   c. State Planning Regions
   d. State Implementation & Enforcement Areas
   e. Air Quality Control Regions
   f. none of the above

9. Which documents describe air pollutant concentrations and exposure times which produce specific kinds and degrees of damage to human health or welfare?
   a. Air Quality Criteria Documents
   b. State Implementation Plans
   c. Control Technique Documents
   d. National Implementation Criteria Plans
   e. Regional Area Criteria Papers
   f. none of the above
10. Which documents describe the "state-of-the-art" in controlling emissions of the criteria pollutants?
   a. Air Quality Criteria Documents
   b. State Implementation Plans
   c. Control Technique Documents
   d. National Criteria Implementation Plans
   e. Regional Area Criteria Papers
   f. none of the above
11. Primary air quality standards are set to protect the public _____.
12. Secondary air quality standards are set to protect the public _____.

13. Which of the following is(are) characteristics of National Ambient Air Quality Standards (NAAQS)?
   a. are concentrations of specific pollutants in the ambient air
   b. based on information in the criteria documents
   c. not spelled out in the law
   d. are regulations adopted by the EPA Administrator
   e. are subject to additions, corrections, and revisions
   f. all of the above
14. Plans that provide for implementation, maintenance, and enforcement of air quality standards in each air quality control region in a State are called:
   a. Technology Plans
   b. Pollution Research Plans
   c. Criteria Documents
   d. ACQR's
   e. State Implementation Plans
   f. none of the above
15. Describe what is meant by Prevention of Significant Deterioration.
16. Describe what States must do regarding the maintenance of National Ambient Air Quality Standards.

Answers are on the next page.

Lesson II
Answers

1. b. air quality management
2. i. preparation of criteria documents and establishment of ambient air quality standards
   ii. establishment of emission limitations
   iii. setting up and operating of limitations enforcement systems
3. a, c, d
4. the President's Reorganization Plan #3 and the Clean Air Act Amendments of 1970
5. by setting up a single environmental enforcement agency, shifted emphasis toward stringent enforcement remedies
6. c. State and local governments
7. b. Sierra Club vs. Ruckelshaus
8. e. Air Quality Control Regions
9. a. Air Quality Criteria Documents

10. c. Control Technique Documents
11. health
12. welfare
13. f
14. e. State Implementation Plans
15. States are required to incorporate into their implementation plans provisions for preventing significant deterioration of existing air quality
16. States must include in their SIPs procedures "to ensure that emissions associated with projected growth and development will be compatible with maintenance of the national standards."

After checking your responses, please turn on the tape recorder.

Lesson III: Regulation

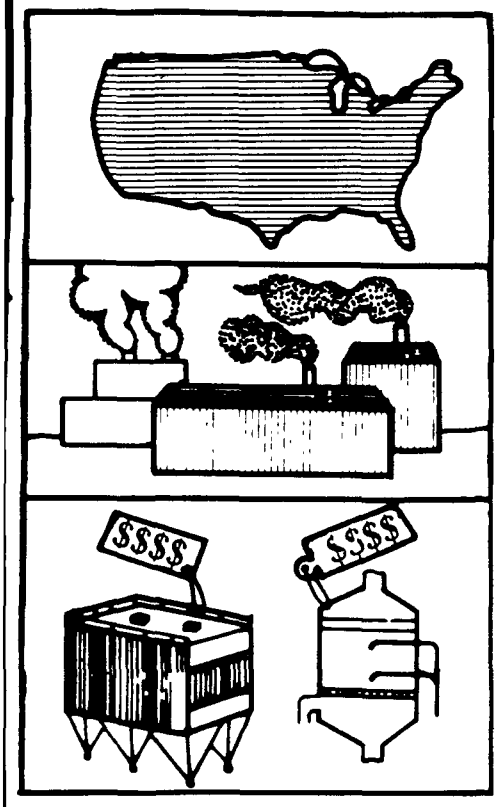
Objectives

1. Identify the characteristics of New Source Performance Standards (NSPS).
2. Describe what may be done if a numerical limitation on emissions cannot be set or enforced.
3. Describe the concept relative to States developing their own new source regulations, as expressed in the Clean Air Act.
4. Identify the characteristics of National Emission Standards for Hazardous Air Pollutants (NESHAPS).
5. Name six hazardous air pollutants.
6. Describe the concept relative to States implementing and enforcing their own hazardous pollutant regulations, as expressed in the Clean Air Act.

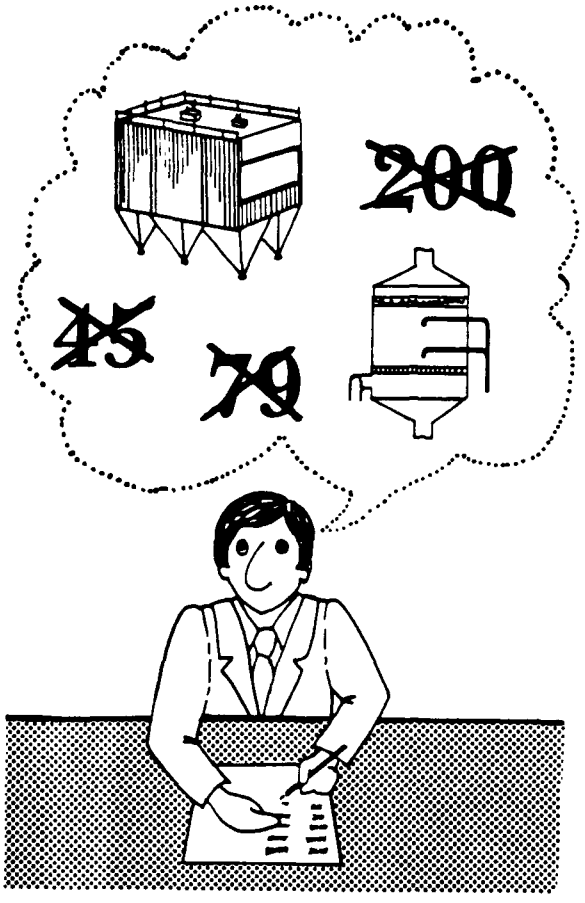
Title I
Section III
Standards of Performance for New Stationary Sources

- Usually called New Source Performance Standards (NSPS)
- Administrator of EPA is required to publish and update a list of categories of stationary sources of air pollutants which "may contribute significantly to air pollution which causes or contributes to the endangerment of public health or welfare."

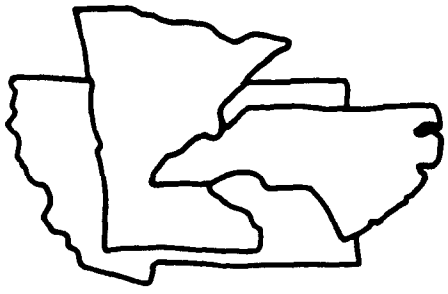
If a new category or source is added



- EPA administrator must set nationwide emissions standards for all *new* sources in that category
- "New" includes sources that are scheduled for modification—if they will then emit more of a pollutant or cause emissions of a pollutant that wasn't previously emitted
- The emission levels must be levels that require the use of the best system available for continuously reducing emissions—taking into account environmental and energy impacts and the cost of such a system



If a numerical emission limitation can't be set or enforced—perhaps because of the nature of a process—then the Administrator may set a "design, equipment, work practice, or operation standard" (or a combination of these).



Section 111(d)

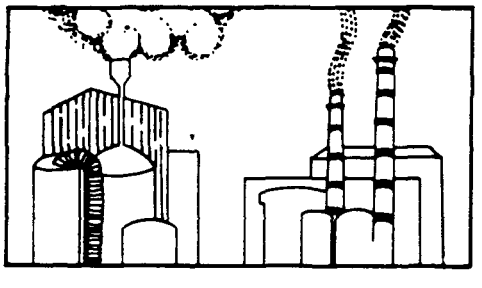
States must establish standards of performance for certain *existing* sources—those not covered by criteria documents or Hazardous Pollutant Standards, but would be subject to NSPS *if they were new sources*

By 1982, EPA must complete the list of source categories subject to NSPS and set emissions standards for all of them.

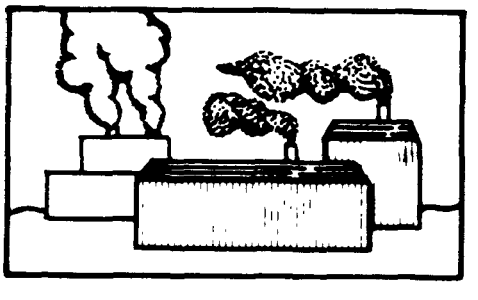
The Clean Air Act and EPA encourage States to:

- develop their own equivalent regulations and
- accept delegation of EPA authority to enforce new source regulations.

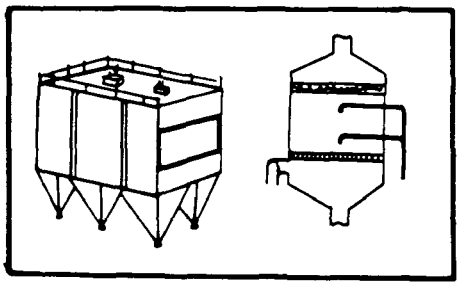
1 Review of Key NSPS Concepts



Deals with categories of **sources** of pollutants

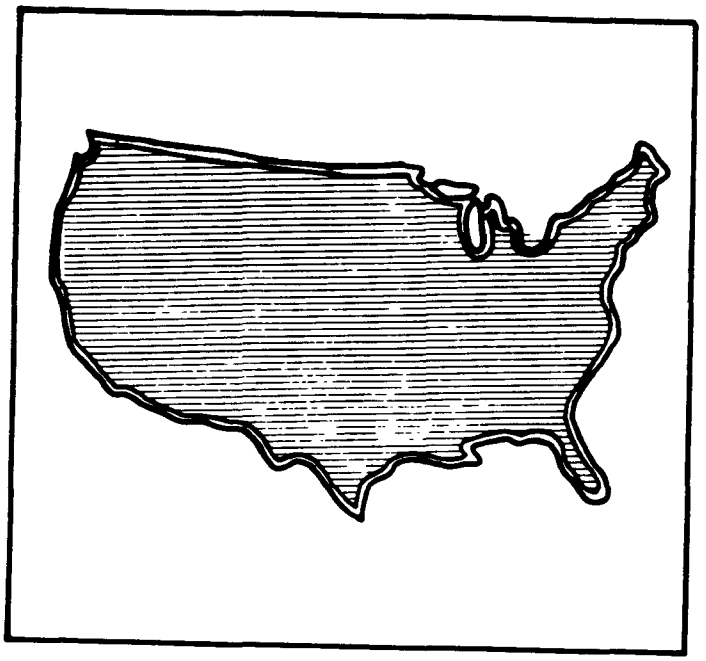


May regulate emissions of **any** air pollutants

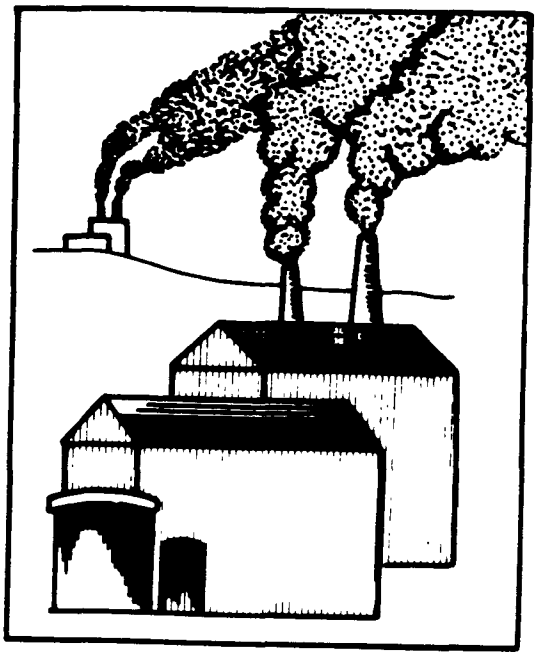


Degree of control is based on available control technology, not on the degree of control required to achieve ambient air quality standards

2

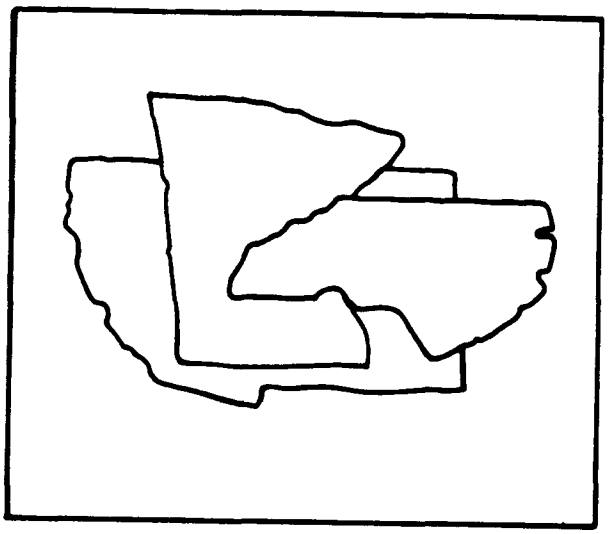


Regulations are uniform nationwide

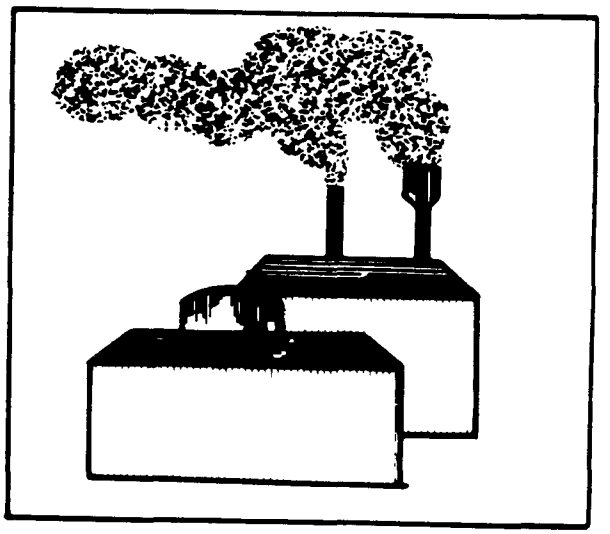


...for **new or modified** sources

3

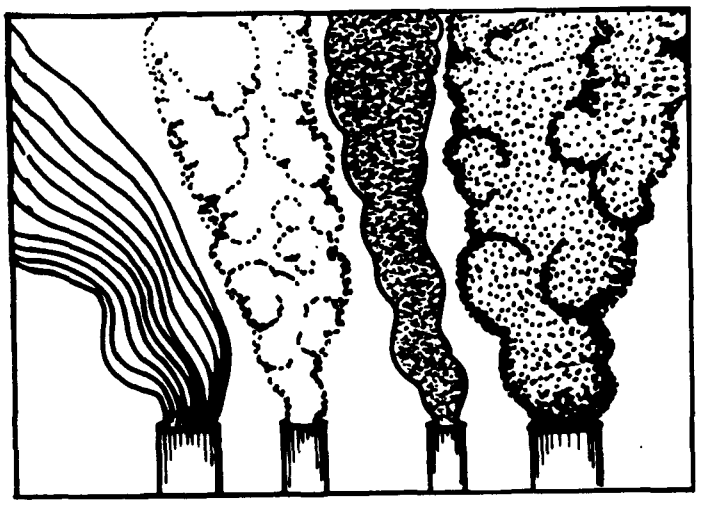


States are required to prepare plans for regulation and enforcement for certain types of *existing* sources in these NSPS categories

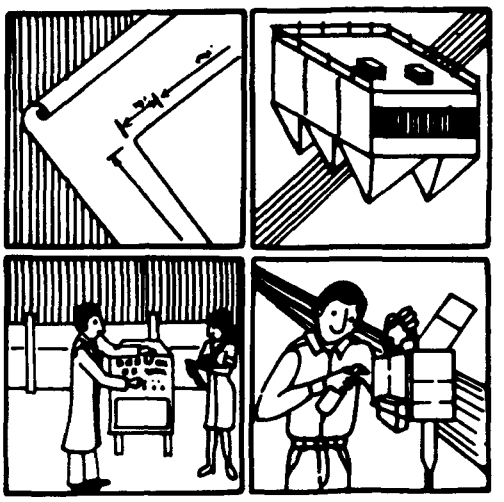


...for pollutants for which there is no ambient air quality standard or hazardous pollutant standard

4

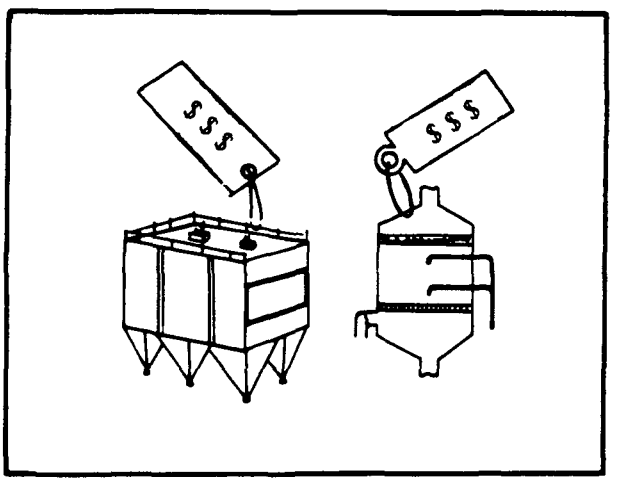


Regulations are basically emission limitations—addressing rates of pollutant emission, stack concentrations of pollutants, or opacity of a plume

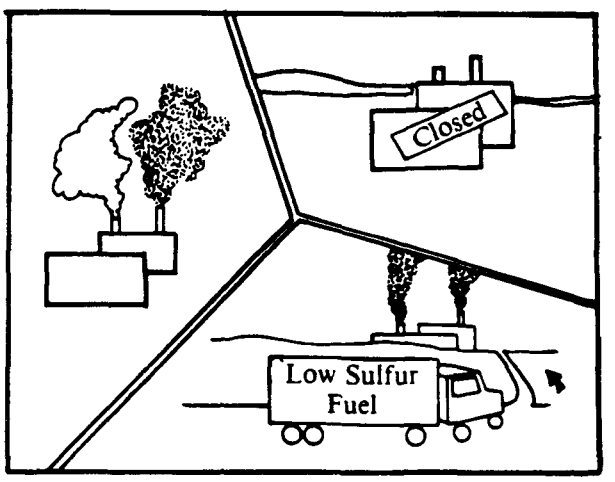


However, in some cases there may be design, equipment, work practice, or operational standards

5



Requires sources to use emission-reducing equipment that is technically and economically available



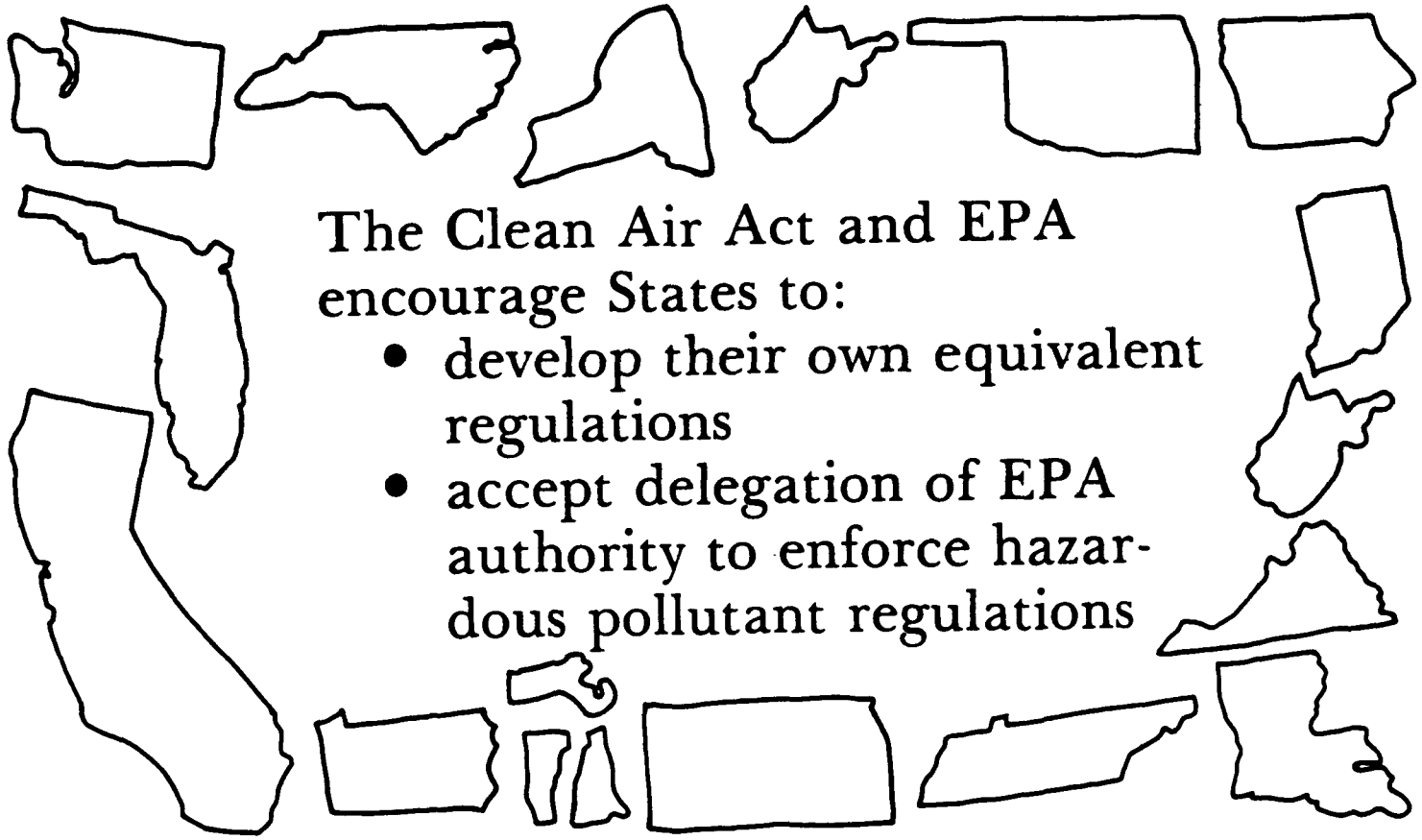
Merely switching to low-sulfur fuel, cutting back operations during adverse weather conditions, or diluting the pollutant will not be considered sufficient except in unusual circumstances

Title I
Section 112
National Emission Standards for Hazardous Air Pollutants (NESHAPS)

- Hazardous air pollutants are those for which no National Ambient Air Quality Standard has been set, and which may reasonably be expected to cause or contribute to increases in deaths, or cause serious irreversible illness, or cause incapacitating reversible illness
- Administrator must prescribe nationwide emission limitations for both new and existing sources which can emit them

Hazardous Air Pollutants

- asbestos
- beryllium
- benzene
- mercury
- vinyl chloride
- radionuclides



Review of Lessons I, II, & III

We have looked at the first two parts of the Air Quality Management Process

1. Preparation of criteria documents and establishment of ambient air quality standards.
2. Establishment of emissions limitations
   - Sections 108 and 109 of the Clean Air Act deal with air quality criteria and ambient air quality standards.
   - Section 110 of the Act deals with the basic mechanism for controlling sources by the States—The State Implementation Plan (SIP).
   - Section 111 deals with Federal emission standards applicable nationwide to designated categories of new sources—the New Source Performance Standards (NSPS).
   - Section 112 deals with Federal emission limitations on certain hazardous air pollutants—the National Emission Standards for Hazardous Air Pollutants (NESHAPS)—from both new and existing sources.

We have also talked about two very important topics related to these: Prevention of Significant Deterioration of Air Quality, which is dealt with in a new Part C of Title I (Section 160-169A); and Plan Requirements for Nonattainment Areas, the subject of new Part D of Title I (Section 171-178).

Lesson III
Questions

1. Which of the following is (are) characteristics of New Source Performance Standards?
   a. deal with categories of sources of pollutants
   b. regulations are basically emission limitations—but may be other standards
   c. degree of control is based on available control technology
   d. regulations are uniform nationwide for new or modified sources
   e. may regulate emissions of **any** air pollutants
   f. requires sources to use emission-reducing equipment that is technically and economically available
2. Describe what may be done if a numerical limitation on emissions cannot be set or enforced.

3. Describe EPA's attitude toward State development of their own new source regulations.
4. Air pollutants for which no National Ambient Air Quality Standard has been set and which may reasonably be expected to cause or contribute to increases in deaths, or cause serious irreversible illness, or cause incapacitating reversible illness are called:
   a. Criteria pollutants
   b. Unregulated pollutants
   c. Hazardous pollutants
   d. Standard pollutants
   e. Particulate pollutants
   f. none of the above
5. Name six hazardous pollutants.
6. Describe EPA's attitude toward states' implementation and enforcement of their own hazardous pollutant regulations.

Answers are on the next page.

Lesson III
Answers

1. a, b, c, d, e, f
2. EPA Administrator may set a design, equipment, work practice, or operational standard—or a combination of these
3. EPA encourages States to develop their own new source regulations
4. c. hazardous
5. asbestos, mercury, beryllium, vinyl chloride, benzene, and radionuclides
6. EPA encourages States to implement and enforce thier own hazardous pollutant regulations.

After checking your responses, please turn on the tape recorder.

Lesson IV: Enforcement
Objectives

1. Name the most important enforcement mechanism under the Clean Air Act (as amended).
2. Identify the authorities and resources a State must have for its State Implementation Plan to be acceptable to EPA.
3. Describe what action the EPA Administrator may take if a State fails to bring about compliance with its State Implementation Plan.
4. Describe the EPA Administrator's emergency enforcement powers.
5. In regard to air pollution (as of the 1977 amendments), identify the grounds upon which a private citizen is authorized to initiate a civil suit.
6. Describe the distinguishing feature of the provisions pertaining to motor vehicle emissions in Title II of the Clean Air Act (as amended).
7. Name the three factors mentioned in this lesson that are essential to solve a complex problem like air pollution.

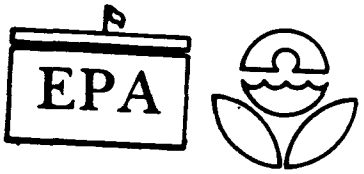
Most Important Enforcement Mechanism Under Clean Air Act: State Implementation Plan

State must show that it has appropriate

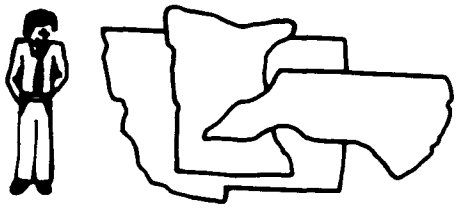
- laws
- control regulations
- staff
- money

to conduct the *enforcement* necessary to make the implementation strategy work

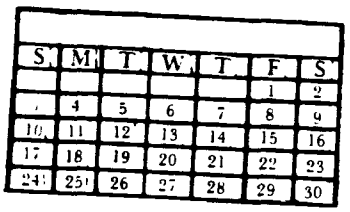
- The Clean Air Act sets out a **national** program of air pollution control.



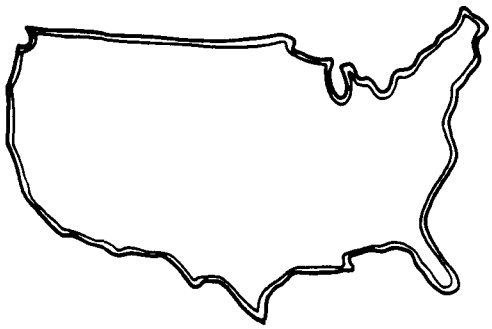
- EPA is given authority to take enforcement action to protect the public health and welfare if the States cannot or will not do so.



- If the Administrator of EPA finds that **any person** is in violation of a SIP, he must notify the violator and the State. A person in this context refers to any man, woman, business, or governmental body.



- If the State does nothing within 30 days, EPA can proceed with its own enforcement.



- If violations of SIP provisions are widespread, after notice EPA may begin a period of Federally assumed enforcement

- Administrator may issue compliance orders against violators with either civil or criminal penalties attached, or he may take civil court action.

Title III
Section 303

Grants emergency enforcement powers to Administrator of EPA

- In the event that any pollution source or combination of sources "is presenting an imminent and substantial endangerment to the health of persons" and that State or local authorities have not taken necessary action to alleviate the problem.
- Administrator (on his own) may issue to any pollution source an abatement order valid for 24 hours.
- He must then go to court to seek to have the order confirmed or extended.

Title III
Section 304
Citizen Suits

Any person is authorized to bring a civil suit

- against alleged polluters—to require them to cease violations, or
- against EPA (in the person of the Administrator)—to perform a nondiscretionary action (usually to issue a regulation or list a pollutant)

Does not allow citizen suits without 60 days notice to EPA, or when EPA is already "diligently prosecuting" a civil action on the matter.

With the 1977 Amendments, Congress further tightened the grounds on which citizens could sue alleged polluters to only

- violations of emission standards or limitations
- proposals to construct without a permit
- violation of conditions of a permit or order issued under specific portions of the Act.

Title II

Distinguishing feature—

the emission standards for new automobiles are written directly into law

(These standards are uniform nationwide except for California)

Clean Air Act (as amended through 1977)

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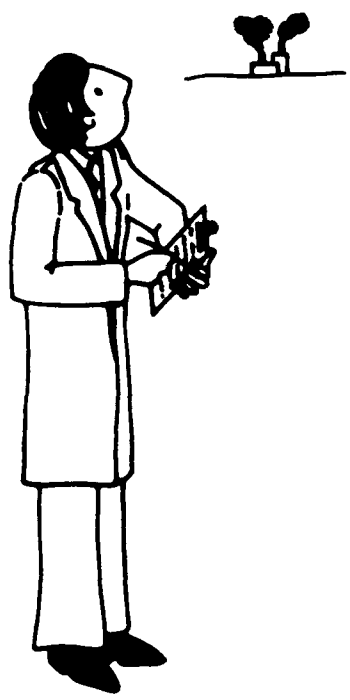
Please turn tape recorder on again. 104

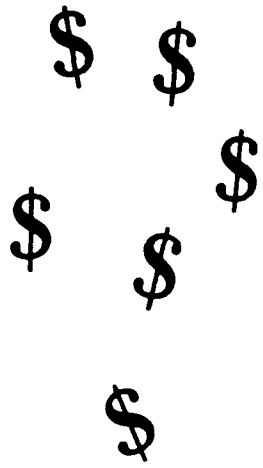
Because of the weakness and lack of coordination of the remedies of common law, we have elected in the United States to follow a statutory Air Quality Management approach, in which we:

- Derive ambient air quality standards from health and welfare criteria;
- Develop systems of emission limitations at the source to meet the ambient air standards; and
- Provide a system of enforcement to determine whether emission regulations are being violated, and to require sources to obey them.

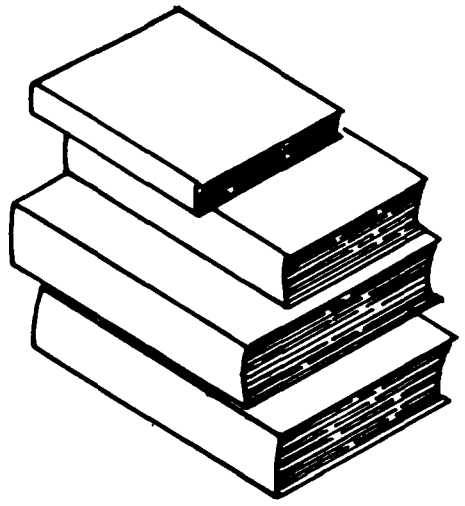
Essential Items



Human Effort



Money



Technical Knowledge

Lesson IV
Questions

1. Name the single most important enforcement mechanism under the Clean Air Act (as amended).
2. Which of the following must a State show that it has in order for its State Implementation Plan to be acceptable to EPA. Appropriate...

   a. land area
   b. money
   c. control regulations
   d. staff
   e. laws
   f. none of the above
3. What action may the EPA Administrator take if a State fails to enforce the provisions of its State Implementation Plan?
4. Describe the EPA Administrator's emergency enforcement powers.
5. From the 3 items listed, choose the one(s) for which a person is authorized to bring a civil suit (as of the 1977 Clean Air Act Amendments).

   a. violations of emissions standards or limitations
   b. violation of conditions of a permit or order issued under specific portions of the Act
   c. proposals to construct without a permit
6. Describe the distinguishing feature of the provisions pertaining to motor vehicle emissions in Title II of the Clean Air Act.
7. Name the three things mentioned in this lesson that are essential to solve a complex problem like air pollution.

Answers are on page 108.

Lesson IV
Answers

1. the State Implementation Plan
2. b. money c. control regulations d. staff e. laws
3. The EPA Administrator may issue compliance orders against violators with either civil or criminal penalties attached, or he may take civil court action.
4. • In the event that any pollution source or combination of sources "is presenting an imminent and substantial endangerment to the health of persons" and that State or local authorities have not taken necessary action to alleviate the problem.
   • Administrator (on his own) may issue to any pollution source an abatement order valid for 24 hours.
   • He must then go to court to seek to have the order confirmed or extended.
5. a, b, c
6. the emission standards for new automobiles are written directly into law
7. human effort, money, and technical knowledge

Unit Test

On a separate sheet of paper, answer the following questions. Check your responses against the answers given on page 111.

1. Describe—in terms of the way they are developed—the difference between common law and statute law.
2. Define "trespass" and "nuisance" as they apply to air pollution law.
3. Name the type of approach the U.S. uses to control air pollution and list its three main steps.
4. According to Title I of the Clean Air Act (as amended), who or what has the primary responsibility for the prevention and control of air pollution at its source?
5. Name the documents that describe air pollutant concentrations and exposure times which produce specific kinds and degrees of damage to human health or welfare.
6. Name the documents that describe the "state-of-the-art" in controlling emissions of the criteria pollutants.
7. Fill in the correct word(s): Primary air quality standards are set to protect the public_____, and secondary air quality standards are set to protect the public_____.

8. Describe what is meant by Prevention of Significant Deterioration.
9. Describe EPA's attitude toward State development of their own new source regulations and State implementation and enforcement of their own hazardous pollutant regulations.
10. Describe what may be done if a numerical limitation on emissions cannot be set or enforced.
11. What is the single most important enforcement mechanism under the Clean Air Act (as amended)?
12. Describe the EPA Administrator's emergency enforcement powers.
13. As of the 1977 Clean Air Act amendments, under what condition(s) is a person authorized to bring a civil suit:
    a. violations of emissions standards or limitations
    b. violation of conditions of a permit or order issued under specific portions of the Act
    c. proposals to construct without a permit
    d. all of the above.
14. Name three things mentioned in Lesson IV that are necessary to solve a complex problem like air pollution.

Unit Test

Answers

1. Common law has grown out of tradition and usage, as stated in court decisions, and statute law has been passed by legislatures and is stated in formal documents.
2. A trespass is an unlawful act committed against a person, his property, or his rights. A nuisance is an unlawful invasion of a person's reasonable use and enjoyment of property in his possession.
3. Air quality management approach.
    1. preparation of criteria documents and establishment of ambient air quality standards
    2. establishment of emission limitations
    3. setting up and operating of limitations enforcement systems
4. State and local governments
5. Air Quality Criteria Documents
6. Control Technique Documents
7. health, welfare
8. Air quality that is already better than national standards cannot be allowed to significantly deteriorate.

9. EPA encourages both.
10. The EPA Administrator may set design, equipment, work practice, or operational standards or a combination of these.
11. the State Implementation Plan
12. In the event that any pollution source or combination of sources "is presenting an imminent and substantial endangerment to the health of persons" and that State or local authorities have not taken necessary action to alleviate the problem, the Administrator (on his own) may issue to any pollution source an abatement order valid for 24 hours. He must go to court to seek to have the order confirmed or extended.
13. d. all of the above
14. human effort, money, and technical knowledge