

from Dirty Air Don't Take Away
a State's Right to Protect Its
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“The right of individual states to set policy with respect to the health and welfare of their citizens is a fundamental tenet in which we both strongly believe.”

*—California Governor Arnold Schwarzenegger
and New York Governor George E. Pataki
January 2005*

DON'T TAKE AWAY STATES' RIGHTS

An important states' right—the right to protect people from dirty air—is facing an unprecedented threat.

Special interests want to take away the right of states and local governments to protect their citizens from some of the biggest sources of pollution—including motor vehicles and electric power plants.

If that right is curtailed, people's health would suffer, and so would the environment.

For more than 35 years, state and local governments have played a critical role in cleaning up harmful air pollution. And their work has helped us all breathe easier.

The air today is much cleaner than it was decades ago. That progress is due in large measure to the work of state and local governments. As this report will document, in many cases, state and local agencies have initiated and led cleanup efforts. State and local regulators also work as partners with their federal counterparts to carry out the Clean Air Act.



Today the law appropriately permits states with the worst air pollution problems to do more to protect their citizens, without imposing unnecessary burdens on other states. This is a more sensible and cost-effective strategy than a "one-size-fits-all" approach. Keeping that right intact is crucial to continue progress towards cleaner air.

Despite improvements in air quality, the work of state and local governments is far from completed. Many millions of Americans are still breathing air with harmful levels of pollutants. Tens of thousands of people are dying prematurely each year. And new environmental challenges are emerging, including toxic air contaminants and global warming.

Because of the continuing challenges, states need every tool available under current law to protect their citizens. Congress should reject efforts to take away the rights of states to protect their citizens from dirty air.





WE HAVE MADE PROGRESS

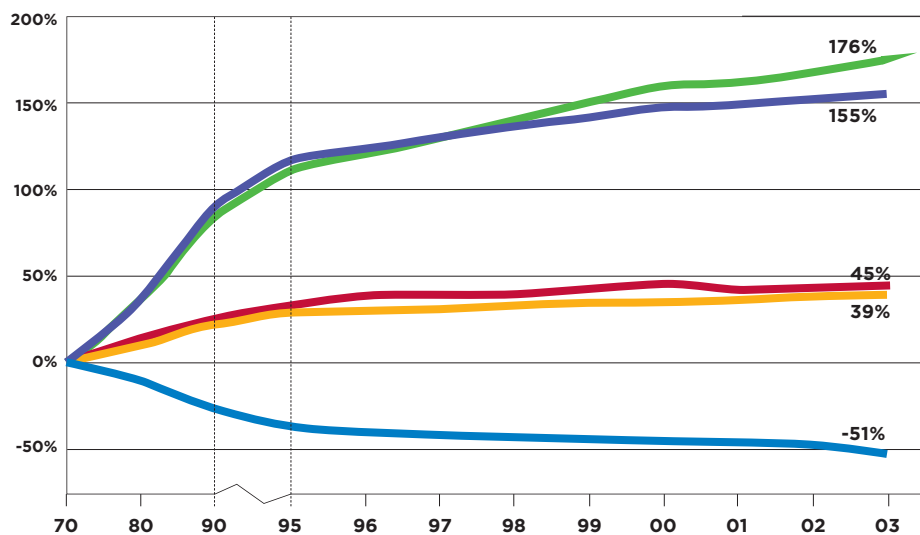
The air we breathe is much cleaner than it was in 1970, when Congress passed the Clean Air Act. Even though there are many more of us, we drive many more miles and we use much more energy, emissions of major air pollutants have dropped by more than 50 percent.

This is graphic evidence that we can have cleaner air and economic growth. We don't need to choose.

The health and environmental benefits of federal, state and local actions to carry out the Clean Air Act have been enormous. According to two EPA reports to Congress, 228,000 Americans enjoyed longer lives, and millions more were spared serious illness—heart disease, chronic bronchitis, asthma and other respiratory illnesses.

We've achieved these public health protections for remarkably little expense. Indeed, EPA reported that the benefits of clean-air control have far outweighed the costs. EPA has concluded that between 1970 and 1990 alone, cleaner air saved the nation an estimated \$22 trillion in health costs and lost productivity, at a cost of \$523 billion—a remarkable 40-1 benefit-cost ratio.

COMPARISON OF GROWTH AREAS AND EMISSIONS



Source: U.S. Environmental Protection Agency



Gross Domestic Product



Vehicle Miles Traveled



Energy Consumption



Population



Aggregate Emissions (Six Principal Pollutants)

PROBLEMS CONTINUE

Despite the progress, air pollution remains a major public health problem. State and local governments will need every tool available in the law to achieve and maintain clean air.

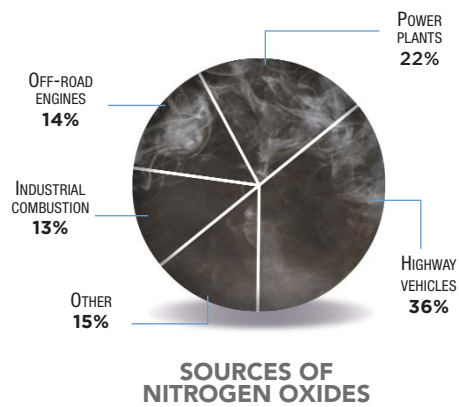
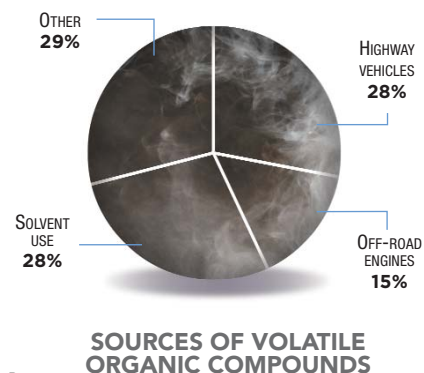
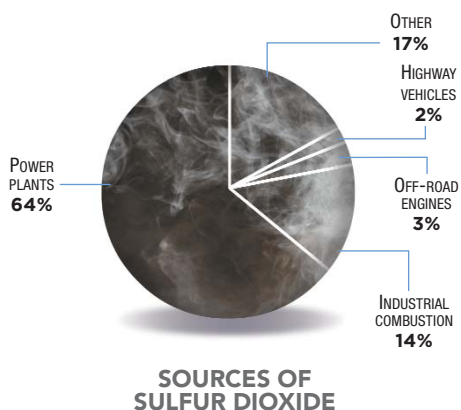
Nearly 160 million people live in areas with unhealthy air quality for ozone (smog). Last year EPA designated all or part of nearly 500 counties as out of compliance with the new 8-hour ozone standard.

This pollutant can trigger asthma attacks, damage the lining of the lungs and increase a person's chance of getting a respiratory infection.

One group at high risk is active children because they often spend a large part of the summer playing outdoors. The recent landmark Children's Health Study, conducted by the University of Southern California with support from California's Air Resources Board, found that smog could cause lifelong breathing problems for children and, in some cases, could even be a cause of asthma.



Not that many years ago, scientists thought smog was the pollutant that posed the most serious public health threat. We now know there are even greater dangers in the air, including fine-particle soot and literally hundreds of toxic chemicals.

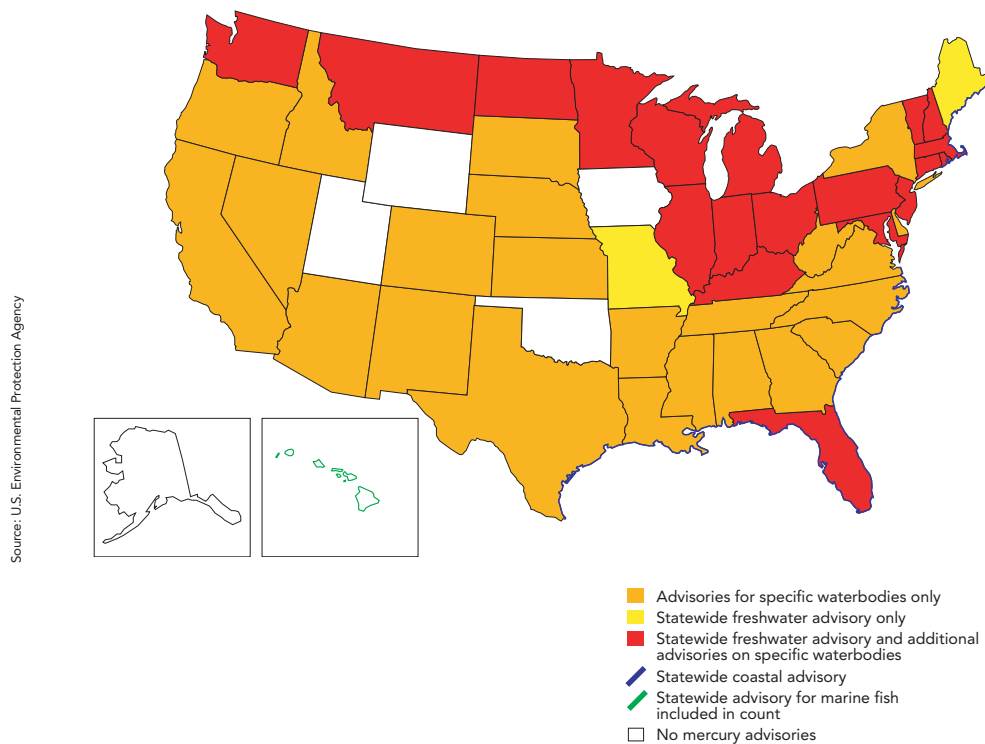


EPA last year noted that 224 counties have unhealthy levels of fine-particle pollution, or PM_{2.5}. This pollutant—created by motor vehicles, electric power plants and other combustion sources—is responsible for literally tens of thousands of premature deaths each year. It can aggravate heart and lung disease and has been associated with a variety of serious health problems including heart attacks, chronic bronchitis and asthma attacks. Vulnerable groups include children, seniors and those with lung and heart conditions.

One prominent toxic contaminant is mercury, which can harm the brains of babies. Women who are pregnant or nursing risk exposure to mercury from eating contaminated fish. Forty-five states have issued advisories warning that elevated levels of mercury are found in local fish.

In addition to causing harm to public health, air pollution also remains a major ecological threat, causing crop and material damage, acidifying lakes and streams, and accelerating eutrophication of water bodies. There is also strong scientific consensus that man-made pollution—created by cars, SUVs, trucks, electric power plants and other sources of combustion—is contributing to global warming.

MERCURY FISH CONSUMPTION ADVISORIES BY TYPE



HOW THE CLEAN AIR ACT WORKS

The Clean Air Act, as enacted in 1970 and amended in 1977 and 1990, works through a partnership among federal, state and local governments.

EPA is charged with setting national health standards for such widespread pollutants as ozone, fine-particle soot and sulfur dioxide. State and local governments then design cleanup plans to meet the federal standards. Indeed, even though the federal government sets minimal requirements for such new sources of pollution as cars and trucks, the law states clearly that "Air pollution control at its source is the primary responsibility of States and local governments." Congress also made it clear in Section 116 of the law that it did not want to limit state authority.

In other words, this partnership gives states the right to protect their citizens by doing more, if necessary, than minimum federal requirements.

Each state has a very detailed and important public process to make sure that rules are tailored to state needs and that citizens have input. The result is that each state designs a clean-up strategy that is appropriate, cost effective and feasible.



"AIR POLLUTION CONTROL... IS THE PRIMARY RESPONSIBILITY OF STATES AND LOCAL GOVERNMENTS"

Because its pollution control effort predated federal standards, the law permits California to set tougher requirements for most moving sources of pollution such as cars and sport utility vehicles. Other states generally can adopt those California standards if they can show they are needed and cost effective.





CLEAN AIR AND THE ECONOMY

Clean air—and the right of a state to pursue it—is important for a state’s economy. Indeed, states’ rights equate to lower costs because states can make sure citizens breathe clean air while avoiding a more costly “one-size-fits-all” requirement.

Air pollution not only harms people’s health, it can harm local economies. When Toyota was considering a location for a new truck plant, the company sought out areas with clean air. “Bad air is bad for business,” observed Doug Hawthorne, President and CEO of Texas Health Resources.

“BAD AIR IS BAD FOR BUSINESS.”

*—Doug Hawthorne,
President and CEO
of Texas Health Resources*

Conversely, good air is good for business. The Commerce Department reported in 1998 that the environmental products industry employed 1.3 million Americans, generated \$181 billion in revenues and contributed \$16 billion to U.S. exports.

The Institute of Clean Air Companies, a trade association of pollution equipment makers, reported that a power plant cleanup effort initiated by state governments is creating more than 25,000 additional jobs a year. The Institute has projected that proposed power plant cleanup legislation, the Clean Power Act, could create nearly 363,000 additional jobs.

Innovations prompted by state-led cleanup efforts also have helped make American companies more competitive in the global marketplace. For example, tailpipe exhaust standards pioneered by California prodded car companies to develop not only catalytic converters, but microprocessors that help maximize fuel economy and pollution control as well as other computerized controls—for example, dashboard lights that alert drivers to potential system problems—that we now take for granted in new cars.

CALIFORNIA HAS LED THE NATION IN MOTOR VEHICLE STANDARDS

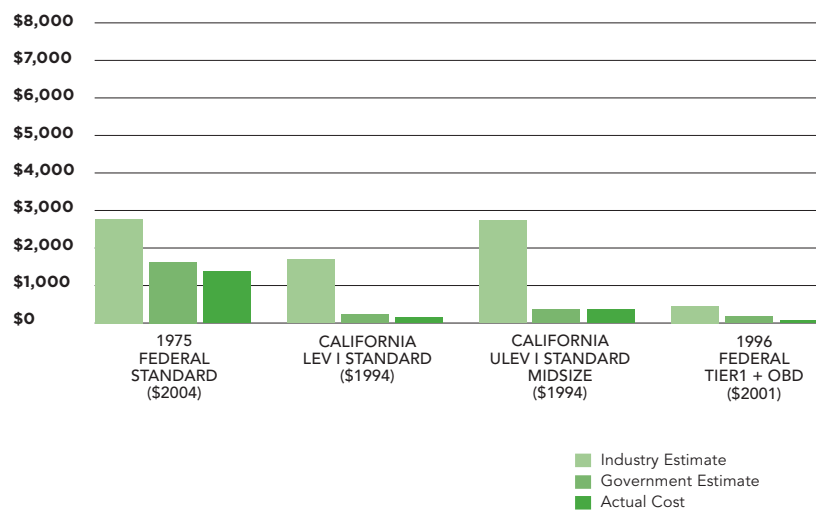
TECHNOLOGY OR STANDARD	CALIFORNIA DEBUT	FEDERAL DEBUT
FIRST AIR POLLUTION CONTROL REQUIREMENT (POSITIVE CRANKCASE VENTILATION)	1963	[SHORTLY AFTER]
FIRST HC AND CO STANDARDS	1966	1968
FIRST NO _x STANDARD	1971	1973
FIRST CATALYTIC CONVERTER (3-WAY)	1977	1981
FIRST BAN ON LEADED GASOLINE	1992	1995
FIRST REFORMULATED GASOLINE	1992	1995
LEV I/NLEV	1994	1999 NORTHEAST 2001 NATIONAL
LEV II/TIER 2 (NOT IDENTICAL)*	2004	2004

Source: CARB. Courtesy NRDC

* Note: LEV II is still about 15% lower for HCs and 25% lower for air toxics (NESCAUM 2003).

ACTUAL COSTS ALWAYS LOWER THAN INDUSTRY ESTIMATES

Actual costs are consistently lower than industry's or regulators' pre-regulatory cost estimates.



Source: NRDC estimates based on Cacklette, 1998 and Anderson and Sherwood 2002. Courtesy NRDC

The second phase of the California clean-car program, known as "LEV II," required SUVs, pickups and vans for the first time to be subject to the same emission requirements as cars. California's pioneering effort brought nationwide benefits; it prompted EPA to adopt the almost-as-tough "Tier 2" standards and cleaner gasoline. These require motor vehicles to be much cleaner than previous models. EPA reported the new standards would be the equivalent of taking 164 million cars off the road and will prevent as many as 4,300 deaths, more than 10,000 cases of chronic and acute bronchitis, and tens of thousands respiratory problems a year. They will bring an estimated \$25 billion in health and environmental benefits to consumers. States remain free, of course, to adopt the more stringent California standards, and seven northeastern states have already done so. Those standards bring additional public health benefits, including an additional 15-percent reduction in smog-forming hydrocarbons and a 25-percent reduction in toxic tailpipe chemical emissions.



STATE SUCCESS STORY: BIG DIESEL TRUCKS

There is probably no pollution more obnoxious than the sooty smoke that billows from big diesel trucks. But the efforts of California and other states will help guarantee that the smoke-belching truck will soon be a relic of the past.

Here's why:

A massive 1998 settlement between the diesel engine manufacturers, EPA and California put an end to a half decade of abuse of federal emission standards that resulted in many diesel trucks emitting two to three times more pollution than allowed by law. Subsequent delays in turning this settlement into a federal regulation created a loophole that would have permitted engine manufacturers to increase emissions from new trucks sold in 2004 to 2007.

But California and other states stepped into the breach. California adopted standards to prohibit any backsliding. And 12 other states—Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island and Texas—plus the District of Columbia exercised their authority under Section 177 of the Clean Air Act and adopted the California standards.

By plugging the loophole, these states guaranteed cleaner trucks nationwide—with an environmental benefit equivalent to removing 30 million cars from the nation's roads—and made it easier for all of us to breathe.



STATE SUCCESS STORY: ELECTRIC POWER PLANTS

How can a state protect its citizens from pollution that literally blows in from other states? By using a proven and effective tool in the Clean Air Act specifically designed to protect states' rights in this matter.

The tool is Section 126 of the law. It permits a state to petition EPA to require a reduction in pollution originating in another state. Thanks to Section 126, people are breathing cleaner air throughout the eastern half of the nation.

Here's a case in point: In August 1997, Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Pennsylvania and Vermont filed petitions asking EPA to reduce smog-forming pollution from electric power plants in upwind states.

The petitions helped prod EPA to move ahead with a plan—which became known in the jargon as the "NO_x SIP Call"—aimed at reducing a whopping million tons of smog-season nitrogen oxides pollution in the eastern half of the nation. That's more than a quarter of all such emissions in the region. EPA concluded that alternative cleanup strategies—for example, targeting small businesses—could cost up to five times more than cleaning up power plants.

Many electric power companies sued to block the plan. Their suit, later rejected by the courts, charged that EPA had acted illegally. In an attempt to avoid using modern pollution controls, the companies also alleged the cleanup would threaten the reliability of electricity supplies. That charge later proved to be unfounded.

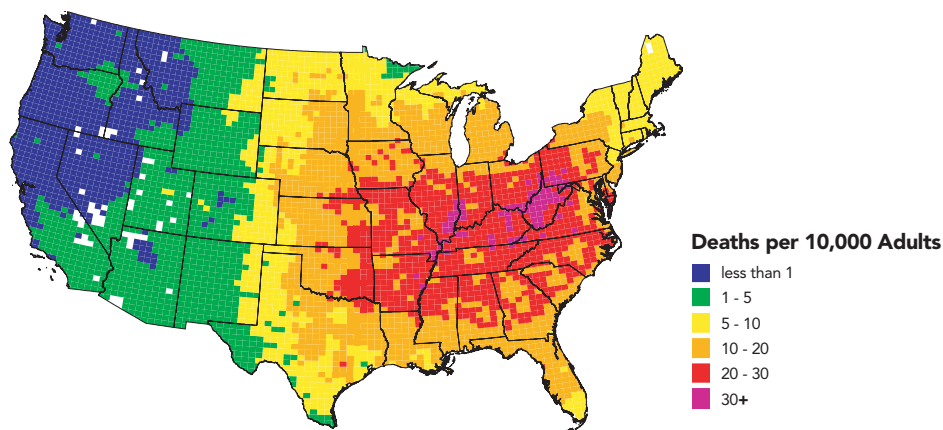
EPA reported in August 2004 that summertime smog-forming emissions are dropping significantly—and the public is breathing cleaner air—thanks to the interstate cleanup effort buttressed by the state petitions.

Many states may need Section 126 to meet tougher national air quality standards for smog and fine-particle pollution. For example, in March 2004, the State of North Carolina petitioned EPA to require cleanup of electric power plants in 13 other states. On February 17, 2005, EPA agreed to act on the request.

Another tool in the law that states have used to promote power plant cleanup is New Source Review. For example, in January 2005, New York announced it had used this tool to require a significant reduction in pollution from four electric power companies in the state.

POWER PLANT POLLUTION IMPACTS

Electric power plants have been linked to more than 24,000 premature deaths each year. Many of those deaths could continue unnecessarily if states lose current rights to take action against polluters.



OTHER POLLUTION PROBLEMS

Even as the biggest and most obvious sources of pollution—cars, SUVs, trucks and power plants—become cleaner, states need to retain the right to deal with other pollution problems.

As it has with cars and trucks, California has taken the lead to prompt cleanup of such sources of pollution as construction equipment, lawn mowers, jet skis and paint products. But other states can ill afford to lose their rights to take action against these and other sources of pollution.

One massive and increasingly obvious problem is global warming pollution. Special-interest lobbying has blocked efforts by Congress to limit heat-trapping emissions, so many states are moving ahead with their own climate strategies. But states have limited tools to reduce global warming pollution from one of the largest sources—cars and trucks—without leadership from California.

In 2004, California adopted standards aimed at reducing greenhouse gas emissions from new motor vehicles. The Clean Air Act permits other states to adopt these standards, just as they did with “low-emission vehicles.” And, as with those earlier standards, California once again is taking the lead on a crucial issue. Retaining existing state authority to adopt the California standards could be crucial for states seeking to meet climate goals.

What can happen when state authority is taken away? Consider the saga of efforts to clean up lawn and garden equipment—a major source of pollution in many areas. When California began to draft new cleanup standards, a lawnmower manufacturer tried to persuade Congress to kill the plan. The result was a compromise attached to spending legislation: California was allowed to proceed, but other states were forbidden to adopt tougher California standards. Under the compromise, EPA was directed to examine better national standards. For now, states—not to mention children and other breathers—remain vulnerable to continuing pollution from lawn and garden equipment.





THREATS TO STATE AUTHORITY

With so many air pollution problems still looming—including smog, fine-particle pollution, toxic chemicals and global warming—it seems only a matter of common sense to permit state and local governments to keep all the cleanup tools they already have available in the Clean Air Act.

But special interests want to take some of those tools away.

Diesel engine manufacturers have stated they want to end California's right to require cleaner engines. Car makers want to eliminate the time-tested right of states to adopt California standards. They also want to prevent California from reducing greenhouse gases from motor vehicles.

The industry groups made their case to a National Academy of Sciences panel that plans to make recommendations to Congress on the issue of states' rights. Congress created the panel at the request of the same company that persuaded Congress to limit the right of states to clean up lawn and garden equipment.

States face another major threat from some proposals to regulate electric power plants through a multi-pollutant strategy. Although the multi-pollutant concept is sound in theory, one version of proposed legislation (labeled the "Clear Skies Initiative") would seriously undermine state authority. It would prevent states from taking action against pollution blowing in from other states until at least 2015, and could impede potential use of that tool afterwards. Other vital tools would be taken away, including New Source Review, which states have used to promote power plant cleanup.

Because air pollution control is a zero-sum calculation, there are serious consequences to taking away the right of states to protect their citizens from such major sources of pollution as power plants and vehicles.

With their hands tied, states and localities might have to seek less cost-effective approaches—for example, tougher requirements for small businesses, or through strategies that may be socially unpopular. Or breathers may be left with dirty air.

PROTECT STATES' RIGHTS

State and local governments have been vital players in our nation's quest for cleaner air. States have been pioneers for progress—laboratories that have demonstrated cost-effective solutions to clean up cars, SUVs and other big sources of pollution.



Indeed, California's ability to pioneer new approaches has sparked innovation, igniting the opportunity for exciting new products such as hybrid-electric cars. It is bringing to reality the vision of a truly zero-pollution motor vehicle. Breathers from coast to coast are benefiting daily.

Other states have also used their authorities judiciously, promoting cleanup of such massive sources of pollution as electric power plants and big diesel trucks.

But the work of state and local governments is far from finished. Our nation still faces enormous public health and environmental problems from air pollution, including smog, fine-particle soot, toxic chemicals and global warming.

It would be a grave mistake to take away the rights of state and local governments to protect their citizens from air pollution. Congress should reject any effort to curtail state authority.

If states lose the right to tackle some of the biggest sources of air pollution, they might have to consider less cost-effective and socially undesirable strategies that affect small businesses or consumers. They still might find it difficult, if not impossible, to balance their state pollution "budgets." They could face the loss of highway funding or other sanctions.

The result could be grim: a nation left with serious public health and environmental problems, and few tools to adequately address them. A child born today could be left with a legacy of dirty air for decades to come.





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The State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO) are the two national associations of air pollution control agencies in 53 states and territories and more than 165 major metropolitan areas throughout the country. The members of STAPPA and ALAPCO have primary responsibility for implementing our nation's air pollution control laws and regulations.

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California's Legislature established the Air Resources Board (ARB) in 1967 to:

- Attain and maintain healthy air quality.
- Conduct research into the causes of and solutions to air pollution.
- Systematically attack the serious problem caused by motor vehicles, which are the major causes of air pollution in the State.

Since its formation, the ARB has worked with the public, the business sector and local governments to protect the public's health, the economy and the state's ecological resources through the most cost-effective reduction of air pollution.