

REGIONAL GOVERNANCE

Challenges of CAAA and ISTEA

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Together the Clean Air Act Amendments (CAAA) of 1990 and the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 seek a major contribution from the surface transportation sector to achieve the nation's clean air standards. American government, however, has generally had great difficulty dealing with problems like air pollution that spill over the borders of many units of government. Recognizing this, CAAA and ISTEA require greatly enhanced capacities for regional governance, historically the weakest component of the American federal system. To fulfill this mandate, daunting political and institutional challenges will have to be overcome. Whether this will occur depends on a process now ongoing in dozens of metropolitan areas.

Lessons of the Past

To a substantial degree, earlier versions of CAAA in 1970 and 1977 failed to accomplish their transportation objectives because of political and institutional problems that federal authorities did not anticipate adequately.

Under the 1970 law, Congress gave tight deadlines to develop binding State Implementation Plans (SIP) detailing how national air quality standards would be attained, including various forms of transportation controls. But transportation and environmental professionals had little prior experience with transportation controls and lacked the organizational, technical, and financial resources necessary to fulfill the federal mandate.

Neither the state nor the regional transportation planning process considered environmental impacts rou-

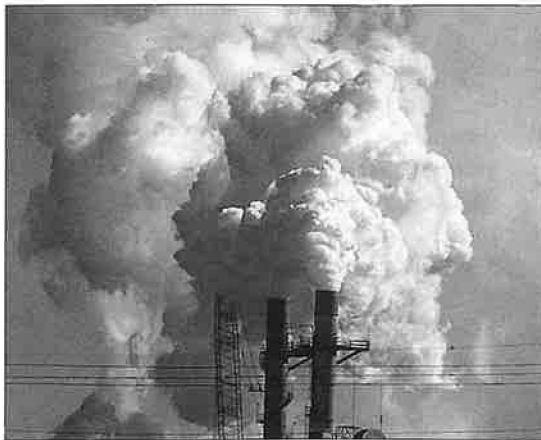
tinely; hence transportation and air quality planning methods had to be established from scratch. Few states had independent air quality agencies at this time, and those that existed were institutionally weak. Regional air quality institutions were virtually nonexistent. Neither the U.S. Environmental Protection Agency (EPA) nor the U.S. Department of Transportation could clearly advise states and localities how specific control measures implemented in a particular metropolitan area would affect emissions, and neither could recommend technical methods capable of forecasting results with precision. Congress, moreover, had provided few resources to defray the costs of the planning process, let alone implementation of necessary control measures.

State and local governments had political as well as institutional difficulties

in dealing with transportation controls. Many citizens strongly resisted proposed SIP provisions requiring changes in everyday behavior or increasing the costs of using transportation facilities, for example, restrictions on parking, steep new congestion tolls and parking taxes, or mandatory retrofitting of older automobiles with emission control equipment. By late 1973, moreover, such measures became linked in public opinion to restrictions and inconveniences resulting from the Mideast oil embargo, such as gasoline rationing and alternate day driving bans—with politically damaging results.

With few exceptions, therefore, governors, big city mayors, and other elected officials refused to implement transportation controls. The CAAA of 1970 provided no credible sanctions for noncompliance except federal assumption of responsibility for planning and enforcement under the act. Most state and local elected officials were delighted to allow EPA to take the blame for unpopular policies.

The CAAA of 1977 sought to avoid many of these problems by requiring more integrated transportation and air quality planning, bringing elected officials more directly into the process, providing more opportunity for public participation and more planning money, and giving the federal government somewhat stronger sanctions with which to punish noncompliance. Generally, though, the procedural innovations of the 1977 CAAA failed to stimulate improved compliance. State and local officials remained unwilling to promote unpopular air quality measures. Although a new round of plans was completed, few regions implemented even mild transportation controls.



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Dilemmas of Regional Governance

This history reveals a fundamental dilemma of the American federal system, not a difficulty unique to this policy area. For many significant regional issues, there is a mismatch between the geographic scale of the problem—whether air quality, transportation, education, economic development, inequality, or racial segregation—and the scope of authority of the public institutions that must deal with it. Problems spill over juridical boundaries, responsibility and the capacity to act are fragmented, and public officials pursue the parochial interests of their jurisdictions and influential groups—or evade involvement altogether. To the extent that ordinary citizens are attentive to an issue, they are often confused and frustrated by the fragmentation of authority, finding it difficult to identify or hold accountable the responsible institutions and officials.

In short, the United States lacks an effective regional structure of politics and governance. Since the 1950s, a number of approaches to solving this problem have been tried, but none suffice. County governments have been strengthened, but the county line does not contain such problems any better than do city limits. Efforts to create metropolitan governments have for the most part failed; and in the places where they have been created, the scope of key problems, driven by urban growth, has often overrun even the new borders. The creation of special districts has been the most effective method of dealing with regional problems; yet for all their genuine accomplishments, special districts often concentrate on too narrow a slice of policy, operate too far from public view, and are insulated from public accountability. In some instances, the states have functioned as de facto regional governments; but they are frequently perceived as unrepresentative and unaccountable to the affected areas, and regional problems often spill over even state borders.

A second dilemma that frequently plagues regional governance is a lack of policy coherence. The agencies that make decisions and operate programs in one policy sphere (e.g., transportation, air qual-

ity, or land use) typically pay little heed to the effects their policies have on other spheres. As a result of these externalities, government policy is often inconsistent, and even perverse, in its impact. Although this problem does not stem from the mismatch of policy scale and scope of authority—indeed, it can occur even within a single government jurisdiction—it is greatly exacerbated by the fragmentation of authority in metropolitan areas.

The federal government has sometimes sought to attack these problems of regional

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governance through national legislation. These laws typically adopt several approaches, singly or in combination: enunciating national goals, requiring specific procedural steps (e.g., regionwide planning), providing grants or other financial inducements for desired program ends, and mandating national regulatory standards.

For example, the evolving framework for urban transportation planning dates to the Federal Aid Highway Act of 1962, which required a “3C” (continuing, comprehensive, cooperative) planning process to be undertaken by states and local governments in urban areas as a condition of receiving federal transportation grants.

As refined in a series of transportation bills enacted by Congress during the 1960s, this process began to integrate additional concerns: land use, other state and local objectives, and citizen participation, with the goal of improving the modal transportation systems.

In several major bills enacted during the 1970s, Congress imposed increasingly strong requirements for multimodal transportation planning through Metropolitan

Planning Organizations (MPO) in each urban area. In the same spirit, it also consolidated highway, transit, and highway safety authorizations into omnibus legislative packages and began to allow the states some modal flexibility in using federal funds (especially through the Urban Systems and Interstate Transfer programs).

By the late 1960s, environmental protection goals were added to the transportation planning process, including the transportation requirements of the 1970 and 1977 CAAA.

As the history of transportation and air quality policy amply reveals, however, enactment of national legislation does not ensure that federal objectives will be achieved. Federal regulation is especially problematic. In U.S. intergovernmental relations the federal government may command certain actions, but it cannot count on being obeyed. Except in those rare cases when it is literally prepared to impose its will by force (as it did to desegregate Southern schools), the federal government must persuade state and local governments to accept its policy directives. It can do this by offering incentives such as grants-in-aid or by threatening to impose sanctions short of force, often by delegating enforcement responsibilities to the federal courts. But such blandishments may not move the states and localities to act effectively. Even if states and localities comply, moreover, federal policy prescriptions may not prove instrumentally effective in producing the desired substantive results. Consequently, the flaws or unexpected consequences of a particular policy approach are frequently addressed in the next phase of an iterative cycle of legislation.

The New Legislation

Years of political deadlock prevented another update of the Clean Air Act Amendments of 1977 until late 1990. The urban transportation provisions of the new CAAA reaffirm the national commitment to the achievement of tough air quality standards. At the same time, they reflect an effort to learn from experience under the 1970 and 1977 amendments. Embodying a major change in regulatory strategy, the new CAAA do not impose the

same requirements or deadlines for attainment on all areas. Nor do they require controls of the types (e.g., tolls and parking surcharges) that inspired such furor in the early 1970s. They do contemplate some strong measures, however, designed (among other things) to reduce vehicle miles of travel in a substantial number of regions.

Quite significantly for transportation, the CAAA of 1990 require much tighter integration of clean air and transportation planning at the regional level. To this end, they greatly strengthen previous "conformity" requirements providing that transportation plans and projects must be consistent with the purposes and requirements of air quality plans. They also authorize far more stringent highway aid sanctions than have been applied to date. The new CAAA seek to assure that the process for developing SIP generates commitment by state and local actors with the capacity to implement control measures. The law requires designation of an agency in each area to develop SIP, which must secure participation by local elected officials, representatives of the local air quality agency, MPO, the state department of transportation, and the general public.

In enacting ISTEA in late 1991, Congress, recognizing the sources of failure of earlier versions of CAAA, strongly reinforced the requirements of the 1990 Act through both ISTEA's planning requirements and funding allocations. ISTEA mandated significant changes in state and local transportation planning: redistributing authority and breaking down modal funding barriers. Thus, as the CAAA of 1990 command new priority for environmental goals in urban transportation, ISTEA provides core financial support and prescribes institutional processes to achieve them.

As the provisions of these complex laws take effect, many questions remain about the effectiveness of this legislative design, not the least of which are those concerning regional policy-making and implementation.

New Challenges for Regional Governance

The CAAA of 1990 and ISTEA of 1991 pose significant challenges for regional gov-



Boston's \$6 billion Central Artery/Third Harbor Tunnel project now under way has been a subject of controversy between environmentalists and transportation agencies.

ernance: eliciting and managing participation by various government institutions, interest groups, and the public; reconciling divergent goals; and enhancing institutional capacity and collaboration.

Eliciting and Managing Participation

CAAA, and particularly ISTEA, require broad participation in transportation policy-making and in program and project implementation. The architects of CAAA and ISTEA see participation as perhaps the crucial means of preventing the conflicts that stymied earlier efforts to regulate transportation for air quality purposes. It is through the tugging and hauling of diverse participants, they believe, that policy options can best be devised, debated, and weighed; priorities set; difficult decisions reached; and plans carried out.

In most metropolitan areas, however, effective channels of communication and the procedures necessary to elicit and focus widespread participation exist, if at all, only in nascent form. The institutional requirements of the two federal laws, moreover, are extremely complex. There is a great number of potential participants. The range of government entities alone is broad, including both air quality and various modal transportation agencies. Their number is increased by the frequent separation of planning and operating organizations and by the proliferation of institutions representing many distinct, but often geographically overlapping, state, regional, county, and local jurisdictions. Elected officials, not just the bureaucracy, are expected to be involved. Effective participation is also desired from a wide range of nongovernmental groups (e.g., business,

environmental, and community) and the public at large.

One MPO staff member has described the situation as "a football game with half-a-dozen teams running around." In fact, there are two games, involving policy systems that previously have been only loosely linked: transportation and air quality. Many of the players—governmental as well as nongovernmental—are rookies in at least one of the games. The effectiveness of the legislative design will hinge on how quickly and well the players get involved, learn the issues, and discover how to play the game in time to have the expected impact on decisions.

Given the fast pace established by CAAA and ISTEA schedules, the outcome is in doubt. Will transportation agencies and constituencies effectively participate in the SIP-writing process? Many fear that critical decisions, especially about the emissions budget for transportation, will be made with inadequate input. Will environmentalists master the transportation planning and resource allocation process in a timely way? Some are nervous that their peers will not learn how until much of the money authorized by ISTEA has been committed.

Reconciling Divergent Goals

CAAA and ISTEA, in effect, declare air quality the primary goal of U.S. transportation policy. In practice, however, participants have a much wider array of goals. Many environmentalists, for example, regard air quality as a policy lever to control sprawl, reduce automobile use, encourage energy efficiency, and promote a particular "quality of life" vision. For the transportation community, a broader agenda (e.g., mobility, economic compet-

itiveness, and growth) is also at stake. In both camps, opinion is divided about how to balance these goals and what particular measures make sense. Some transportation interests, for example, seek to reduce the level of congestion without building more road capacity, and others want freedom to add new capacity. Besides the environmentalists and transportation interests, some other groups are promoting specialized goals (e.g., access for the handicapped) as their top priority.

It is not clear whether and how these different agendas can be reconciled, especially in those urban areas with the most acute air quality problems. Intense political conflict over policy and funds can be anticipated in some metropolitan areas. The procedures of the two federal laws provide few incentives to reach firm decisions except the compliance schedule and the threat of sanctions, which, although stronger and more realistic than under previous clean air legislation, remains untested.

Enhancing Institutional Capacity and Collaboration

CAAA and ISTEA demand a set of integrated, technically complex plans prepared under tight deadlines. These include the transportation portions of SIP; the long-range transportation plan; financially constrained state and regional TIPs allocating more flexible federal grant sources; several management systems, particularly the "congestion management system"; and the conformity process by which air quality and transportation plans are made consistent.

Before these plans can be developed, however, the government agencies involved must enhance their own capabilities and establish new or revamped working relationships with one another and with the array of interest groups already described. New skills are required in some instances, including enhanced transportation and air quality modeling capabilities, and new responsibilities must be exercised. In the case of ISTEA, for example, the roles and relationships of state and metropolitan transportation entities have been significantly revamped—most notably by

giving the MPO more decision-making authority and by requiring the states to develop new planning documents. Most problematic will be the linkages—so tenuous in the past—among those products that are primarily oriented toward air quality results and those primarily oriented toward the surface transportation network.

It is quite clear, finally, that reaching consensus on plans is not a sufficient condition for successful implementation. Agreement on espoused policy does not ensure that it will actually be carried out.

Role of the Transportation Research Community

The transportation research community can contribute to this endeavor (and has begun to) through studies that draw on diverse disciplinary approaches and by exchange of information in professional forums.

The national scope of CAAA and ISTEA provides a laboratory for studying, documenting, and analyzing exemplary practices for securing public participation and effective structures and procedures for institutional collaboration. Such research would help diffuse findings about ways to improve transportation and air quality policies.

It would also shed light on questions of import for other national issues. Can metropolitan areas devise ways of overcoming the mismatch between fragmented local government institutions and the scale of regional problems? Can the external, often perverse, effects of different functional policies (e.g., transportation, air quality, and land use) be effectively taken into account and made more consistent at the metropolitan level? Can we develop improved institutional structures that permit democratic control over metropolitan policies, while preventing policy gridlock or the triumph of parochial interests over broader public needs?

Planners and decision makers need far better insight, qualitative as well as quantitative, about the likely impacts of various emission-reduction options (both individual measures and classes of measures) not only on travel and emissions but on economic activity, housing and job loca-

tions, popular satisfaction and convenience, and social relationships.

Planners and decision makers need broad comparative analyses of the types of policy and investment program adjustments needed to meet CAAA's standards and deadlines, the balance of political forces with respect to major policy alternatives, their fiscal implications and implementation requirements, and the degree to which the new planning and resource allocation procedures established by ISTEA facilitate such adjustments.

Conclusion

The CAAA of 1990 and ISTEA of 1991 pose strong challenges to the nation as a whole, and not least to the community of transportation professionals who work in diverse public agencies (air quality as well as transportation) and in the private sector. Will the expectations embedded in CAAA and ISTEA prove realistic? Participation may be stifled or, alternatively, prove unmanageable. Divergent goal perspectives may make it impossible to achieve consensus on policies and projects, despite the pressures of federal regulatory requirements and the potential sanctions for noncompliance. Public agencies may not have the resources, skills, or time to develop necessary organizational capacity, let alone to integrate their separate contributions. At the very least, transportation agencies face a demanding, stressful period during which they must rapidly develop the capacity to frame new policies that comply with federal clean air mandates without damaging other important objectives.

The stakes are high. The framework of federal law effectively requires the surface transportation sector to make significant contributions to the battle against air pollution before it can address other goals of the transportation system. Although effective exercise of traditional professional skills is certainly necessary to be successful, the effort will also require less conventional skills to overcome the political and institutional challenges to implementation of these laws.