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Arkansas Department of Environmental Quality – Implementing Environmental Policies and Regulations: Stuart Spencer (Associate Director/Office of Air Quality) UALR Law School Presentation

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Arkansas Department of Environmental Quality (“ADEQ”) Associate Director (Office of Air Quality) Stuart Spencer undertook a January 24th presentation to my University of Arkansas Law School Environmental Law class titled:

ADEQ: Implementing Environmental Policies and Regulations (“Presentation”)

The Presentation addressed:

- ADEQ’s authority
- Regulations
- Permitting
- Enforcement

An understanding of ADEQ’s role in implementation of the federal environmental baseline statutes is particularly important because Arkansas has been delegated the various programs (that can be delegated). As a result, ADEQ is primarily responsible for the development, implementation and enforcement of the relevant environmental media programs.

Mr. Stuart’s Presentation undertook an analysis of the United States Environmental Protection Agency’s (“EPA”) ability to delegate such programs to the states, specifically referencing:

- Authority
- Funding
- Responsibility

The requirements for such delegation were discussed, such as:

- Enactment of regulations
- Enforcement of regulations
- Funding of programs

A specific focus was the concept of “cooperative federalism,” which is described as state agencies and EPA playing “complementary roles in the national system.” Further, it was noted that the states implement 96.5% of federal programs that can be delegated to the states.

National statistics cited included:

- State agencies conduct more than 90% of environmental inspections, enforcement, and environmental data collection, and issue a similar amount of all environmental permits
- Supply most of the funding (typically 80% of actual cost)
- States have increasing workload at a time when federal funding support for states is declining

Programs delegated in Arkansas were also discussed, such as:

- Hazardous Waste (noting delegation of the federal Resource Conservation and Recovery Act Hazardous Waste Management program)
- Clean Water Act (noting delegation of the National Pollution Discharge Elimination System program [“NPDES”] and pretreatment programs)
- Clean Air Act
- New Source Performance Standards
- National Emission Standards for Hazardous Pollutants
- Prevention of Significant Deterioration
- State Implementation Plan

ADEQ and its supervising body, the Arkansas Pollution Control and Ecology Commission, were addressed, including the applicable regulatory administrative procedures. For example, Mr. Spencer identified the procedural requirements associated with permitting such as:

- Public notice
- Draft permit
- Public comment
- Public hearing (if requested)

From an enforcement standpoint the discussion addressed inspections and the components of such activities. In addition, the components of enforcement actions were discussed, such as:

- Consent Administrative Order
- Notice of Violation
- Direct action in Civil Court

The ability of ADEQ to seek criminal/civil penalties and emergency orders was discussed. Also, the administrative litigation procedures associated with permit appeals and administrative enforcement for review by the Arkansas Pollution Control and Ecology Commission were considered.

Finally, Mr. Spencer discussed state government clerkships and noted ADEQ usually has a clerkship in the Fall and Spring semesters (coordinated through the law school’s externship program). He also noted various benefits of agency clerking such as:

- Usually one-on-one mentor with attorney
- Included in staff and client meetings
- Diverse assignments
- Feedback on work product
- Hours
- Holidays
- Rarely “billing”
- Public Service Loan Forgiveness as part of College Cost Reduction and Access Act of 2007

[A copy of Mr. Spencer’s slides can be downloaded here.](#)

