

Civil Environmental Enforcement: July 11th U.S. Environmental Protection Agency Memorandum Addresses Federal/State Partnerships



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The United States Environmental Protection Agency (“EPA”) issued a July 11th memorandum titled:

Enhancing Effective Partnerships Between the EPA and the States in Civil Enforcement and Compliance Assurance Work (“Memorandum”)

The *Memorandum* is authored by Assistant Administrator for Enforcement and Compliance Assurance, Susan Parker Bodine, and was distributed to the agency’s Regional Administrators.

The *Memorandum* is described as defining EPA’s “expectations and procedures for enhancing effective partnerships in civil enforcement and compliance assurance work between the U.S. Environmental Protection Agency and states that are authorized, delegated, or approved to implement federal programs.”

As an aside, note that the Arkansas Department of Environmental Quality is a state agency that has been authorized, delegated, or approved to implement basically every federal environmental program that can be delegated.

By way of summary, the *Memorandum*:

- Articulates expectations and best practices for periodic joint work planning and effective communication between EPA Regions and states to further the goal of shared accountability for the consistent enforcement of the law
- Articulates the primary role of the states in implementing authorized programs, while acknowledging that EPA’s responsibilities to the President, the Congress, and the public to take direct action when a state lacks the economic or technical capability or the will to take timely and appropriate action (including a description of the circumstances that may warrant direct federal action)
- Sets out the process by which issues that may arise under the policy dictated by the *Memorandum* will be elevated

The *Memorandum* notes prior statements by EPA Administrator Wheeler addressing EPA and state roles. Also referenced is an EPA/Environmental Council of the States Compliance Assurance Work Group whose objectives included the development of procedures to advance cooperation between EPA and state enforcement offices. This work group published what are described as consensus-based recommendations. In addition, EPA Interim Guidance that was issued by the federal agency on January

22, 2018, is referenced. These documents are characterized as information utilized in developing the Memorandum.

Arkansas Department of Energy and Environment Secretary Becky Keogh who serves as President of the Environmental Council of the States is quoted in an EPA press release, noting the issuance of the Memorandum, as stating:

The Environmental Council of the States committed to this partnership with U.S. EPA to derive improvements and effective and efficient enforcement and compliance assurance outcomes. . . We look forward to better realization of shared goals for future environmental progress.

A copy of the EPA press release can be found [here](#) and the Memorandum [here](#).