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Arkansas Department of Environmental Quality Overview/Air Quality Update: Stuart Spencer (Associate Director Office of Air Quality) UALR Law School Presentation

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Stuart Spencer undertook a February 4th presentation to my University of Arkansas at Little Rock School of Law Environmental Law class titled:

Arkansas Department of Environmental Quality Overview and Air Quality Update ("Presentation")

Stuart's Presentation addressed:

- Authority of Arkansas Department of Environmental Quality ("ADEQ")
- Arkansas Pollution Control and Ecology Commission regulations
- Permitting
- Enforcement
- Clean Air Act updates

Understanding the role of ADEQ in Arkansas environmental affairs is critical since the agency has been delegated basically every federal environmental program. As a result, regulated facilities will be dealing with ADEQ the vast majority of time on permitting, interpretation, enforcement, and other matters. Further, the agency has possessed the statutory and regulatory authority to address air and other media issues for many years.

By way of example, the provisions of the Arkansas Air Pollution Control Act trace their origins to the Water Pollution Control Act of 1949. This legislation created the general procedural framework for most permit and rulemaking proceedings, enforcement actions and appeals. In 1965 the Arkansas General Assembly adopted legislation specifically providing for the regulation of air pollution within the state.

Stuart's presentation referenced a theme described as the "Cooperative Federalist Framework." He noted that the United States Environmental Protection Agency ("EPA") can delegate to states:

- Authority
- Funding
- Responsibility

The basic prerequisites for state delegation were noted, which include:

- Enactment of regulations

- Enforcement of regulations
- Funding of programs

The role of the states in protecting the environment was identified as:

- Co-regulators with EPA in a national system of environmental protection
- State/federal agencies play complementary roles in the national system
- States implement 96.5% of federal programs that can be delegated to the states

Statistics were noted in regards to the state's role:

- Conduct 90% of environmental inspections, enforcement, and environmental data collection, and issue a similar amount of all environmental permits
- Supply most of the funding for delegated federal programs
- Express concern about increasing workload when federal funding is declining

Examples of programs that have been delegated to Arkansas were described, such as:

- Hazardous Waste
- Clean Water Act, noting:
 - National Pollution Discharge Elimination System permitting
 - Pretreatment
- Air, noting:
 - NSPS
 - NESHAP
 - PSD
 - SIP
 - Title V

The makeup and role of the Arkansas Pollution Control and Ecology Commission was recognized, referencing its rulemaking and appellate duties.

A key focus of the Presentation was ADEQ enforcement elements such as:

- Inspection
- Facility Violations
- Enforcement Process
- Civil/Criminal Penalties
- Emergency Orders
- Informal Enforcement
- Administrative Enforcement

Finally, Stuart provided an update on key Arkansas air issues, such as:

- Regional Haze
- National Ambient Air Quality Standards
- Air Integrated Regulation Project
- Regulating GHG Emissions from Power Plants
- Other Rulemakings

A copy of the slides can be found [here](#).