

**AEF Water Seminar 2019**

**“Nuts and Bolts of Enforcement”**

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# AEF Water Seminar–Nuts and Bolts of Enforcement

## Points of Discussion:

- Why/What Is Enforcement
- Types of Enforcement
- How to Avoid Enforcement
- How to Deal with Enforcement
- Shifts in Enforcement

# AEF Water Seminar–Nuts and Bolts of Enforcement

Is It This?



# AEF Water Seminar–Nuts and Bolts of Enforcement

This?



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What is Enforcement?

- To give force to or strengthen;
- To urge with energy;
- To uphold a stand or argument;
- Constrain;
- Compel obedience.

Enforcement is the tool used to urge compliance and when necessary force retribution

# AEF Water Seminar–Nuts and Bolts of Enforcement

Two Theories of Government Enforcement:

- Normative Model of Behavior: Carrot
- Rationalists Model of Behavior: Stick

# AEF Water Seminar–Nuts and Bolts of Enforcement

## Two Theories of Enforcement:

- Normative Model of Behavior: Carrot

Those regulated follow the logic of appropriateness and act in good faith. Compliance occurs, or doesn't, largely because of the regulated actor's capacity and commitment. If they can and understand, they will comply. This theory calls for more compliance promotion in the form of assistance, incentives etc.

# AEF Water Seminar–Nuts and Bolts of Enforcement

## Two Theories of Enforcement:

- Rationalists Model of Behavior: Stick

Those regulated follow the logic of consequence. Everyone acts to maximize their own self interest. If its “cheaper” to violate a requirement, then they will. This theory calls for deterrence-based enforcement. The regulated must believe that there is a high probability of getting caught, the response to violations will be swift, certain and fair; the punishment will be severe enough to outweigh the benefits of noncompliance.



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## What is Enforcement in Arkansas?

ADEQ implements and enforces **water quality laws, regulations, policies, and plans** to protect the waters of the state. Timely and consistent enforcement is critical to the success of the water quality program and to ensure that the people of Arkansas have clean water. The **goal** of the Enforcement Branch is to protect and enhance the quality of the waters of the state by defining an **enforcement process that addresses water quality problems in the most efficient, effective, and consistent manner.**

The enforcement program relies on well-developed compliance monitoring systems designed to **identify and correct violations, help establish an enforcement presence, collect evidence needed to support enforcement actions where there are identified violations, and help target and rank enforcement priorities.**

- **Types of Enforcement Authorities:**

- Enter a facility.
- Take samples.
- Take documents.
- Question personnel.
- Impose a schedule for compliance.
- Permanently shut down certain parts of operations or practices.
- Temporarily shut down certain parts of operations or practices.
- Permanently shut down an entire facility.
- Temporarily shut down an entire facility.
- Deny a permit.
- Revoke a permit.
- Require a facility to clean up part of the environment.
- Emergency powers to enter and correct immediate dangers to the local population or environment.
- Seek compensation for damage caused by the violation.

- **Types of Enforcement Authorities:**

- Require specific testing and reporting.
- Impose specific labeling requirements.
- Require monitoring and reporting.
- Request information on industrial processes.
- Require specialized training (*e.g.*, in emergency response to spills) for facility employees.
- Require a facility to undergo an environmental audit.
- Impose a monetary penalty with specified amounts per day per violation.
- Seek imprisonment.
- Seek punitive damages or fines within specified limits.
- Seize property.
- Seek reimbursement for government clean-up expenses.
- Bar a facility or company from government loans, guarantees, or contracts.
- Require service or community work to benefit the environment.
- Place limitations on financial assistance.

- **ADEQ Water Enforcement:**
  - Warnings
  - Inspections – Notice of Violations
  - Consent Administrative Orders
  - Fines

- **How to Avoid Enforcement?**
  - Know your Permit
  - Pay Attention to ADEQ Correspondence
  - Know Your Systems/Watch Your Data Trends
  - Know How to Respond Before Things Happen
  - Keep ADEQ in the Loop
  - Be a Good Actor

## AEF Convention – Nuts and Bolts of Enforcement

- **How to Deal With Enforcement?**



- **How to Deal With Enforcement?**
  - Do Your Due Diligence
    - Is this Legitimate
    - Do You Have a Defense
    - Is Your Documentation in Order
  - Contact ADEQ
    - Plead Your Case/Negotiate
    - Set Up a Meeting
    - Summarize Your Compliance History
    - Determine Corrective Action

# AEF Convention – Nuts and Bolts of Enforcement

- **Shifts in Enforcement?**

Audience Participation!!





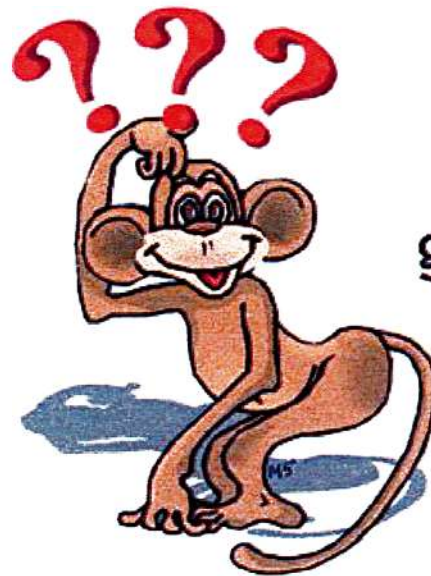
# AEF Convention – Nuts and Bolts of Enforcement

- **Shifts in Enforcement?**

- **Regulations**
- **Administrations**
- **Funding**
- **Directives**
- **Case by Case**
- **Personnel**

# AEF Convention – Nuts and Bolts of Enforcement

- **Questions or Comments...Experiences?**



Questions  
are  
guaranteed in  
life;  
Answers  
aren't.