

ADEQ Overview and Air Quality Update

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ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY

What We Will Cover Today

- ADEQ's authority
- Regulations
- Permitting
- Enforcement
- Clean Air Act Updates

Cooperative Federalist Framework: From EPA to ADEQ



Clean Air Act has a cooperative federalist structure. EPA can delegate to states:

- Authority
- Funding
- Responsibility

From EPA to ADEQ

Delegated states must:

- Enact regulations
- Enforce regulations
- Fund programs



Role of the States in Protecting the Environment

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

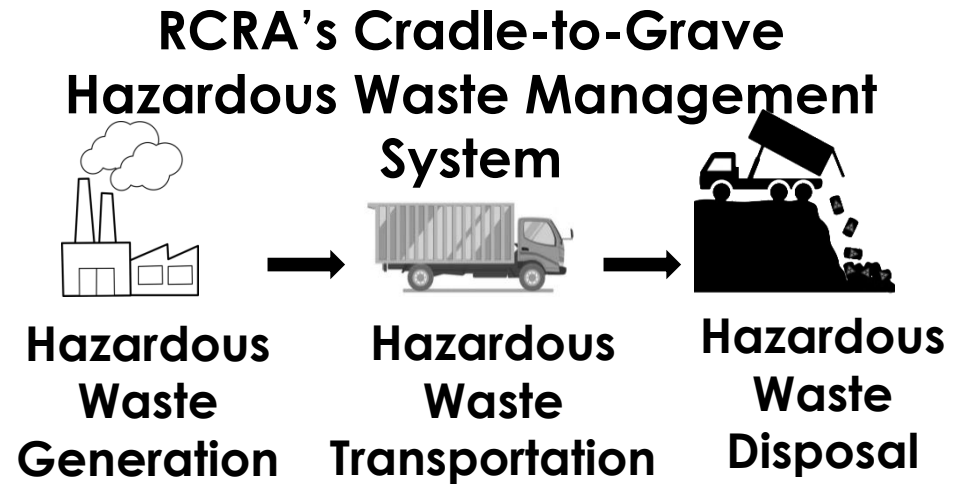
State's Role

- 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 for delegated federal programs implementation (typically 80% of actual cost)
- States are concerned about the increasing workload that is being asked of the states coming at a time when federal funding support for states is declining.

Program Delegation in Arkansas

Hazardous Waste (HW)

- ADEQ's Office of Land Resources has received delegated authority of the federal RCRA HW management program
- State and federal HW management regulations and requirements are merged into a single Regulation: APC&E Commission Regulation 23



Program Delegation in Arkansas

Clean Water Act

ADEQ's Office of Water Quality's delegated authority includes:

- National Pollution Discharge Elimination System (NPDES)
- Pretreatment

Program Delegation in Arkansas

Clean Water Act

NPDES (National Pollution Discharge Elimination System)

- An NPDES permit is required for any discharges of pollutants from a point source into navigable waters of the US.
- EPA or the states must set limits on the amount of pollutants that facilities may discharge into a waterbody.
- The thresholds are established according to national technology-based standards, and the conditions of the waters that receive the discharge based on state water quality standards. Indirect discharges from non-point sources are not subject to NPDES requirements, but they are regulated by pretreatment standards.

Program Delegation in Arkansas

Clean Water Act

Pretreatment

- Publicly Owned Treatment Works (POTWs) required to develop pretreatment programs and impose pretreatment standards for discharges from non-point sources

Program Delegation in Arkansas

Air

ADEQ's Office of Air Quality has received all delegable air programs from Region 6 of the U.S. including the following:

- New Source Performance Standards (NSPS)
- National Emission Standards for Hazardous Air Pollutants (NESHAP)
- Prevention of Significant Deterioration (PSD)
- State Implementation Plan (SIP)
- Title V program for major sources of pollutants

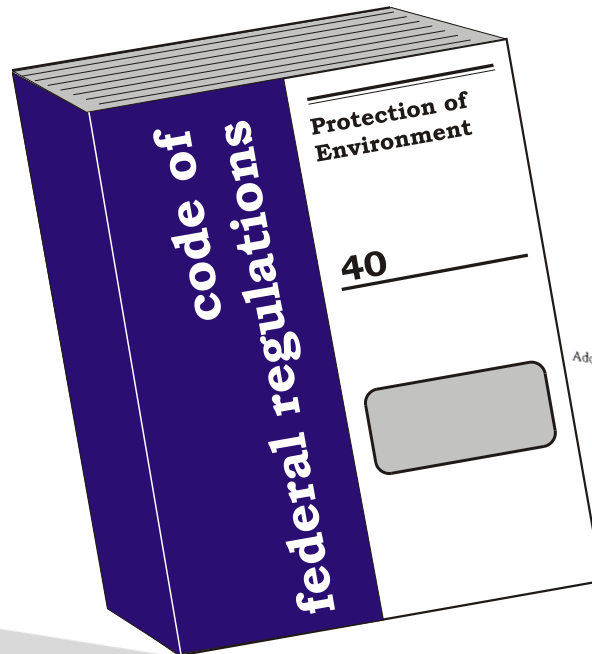
APC&E Commission

- Environmental policy-making body for Arkansas
- Thirteen members
 - Six from state agencies
 - Seven Governor appointees
- Approves regulations
- Appellate body for ADEQ decisions



Implementing Regulations

- Permits/
registrations/
ID number
- Identifying &
monitoring
- General vs.
Individual



FILED
Pollution Control and Ecology Commission #014.00-026
ARKANSAS POLLUTION CONTROL
and ECOLOGY COMMISSION
REGULATION NO. 26
REGULATIONS OF THE ARKANSAS
OPERATING AIR PERMIT PROGRAM



Adopted by the PC&E Commission: December 5, 2008



Permitting

- Public notice
- Draft permit
- Public comment
- Public hearings (if requested)
 - Comments
 - Response to comments

Inspections

- Permit/registration
- Complaint
- Random

Facility Violations

- Inspector writes report
- Report routed up chain of command
- Referred to Enforcement



Enforcement

- Consent Administrative Order (CAO)
- Notice of Violation (NOV)
- Direct action in Civil Court

Powers of ADEQ

- Criminal penalties
- Civil action
- Civil penalties
 - \$10,000 per day per violation of any rules, regulations, permits, or plans

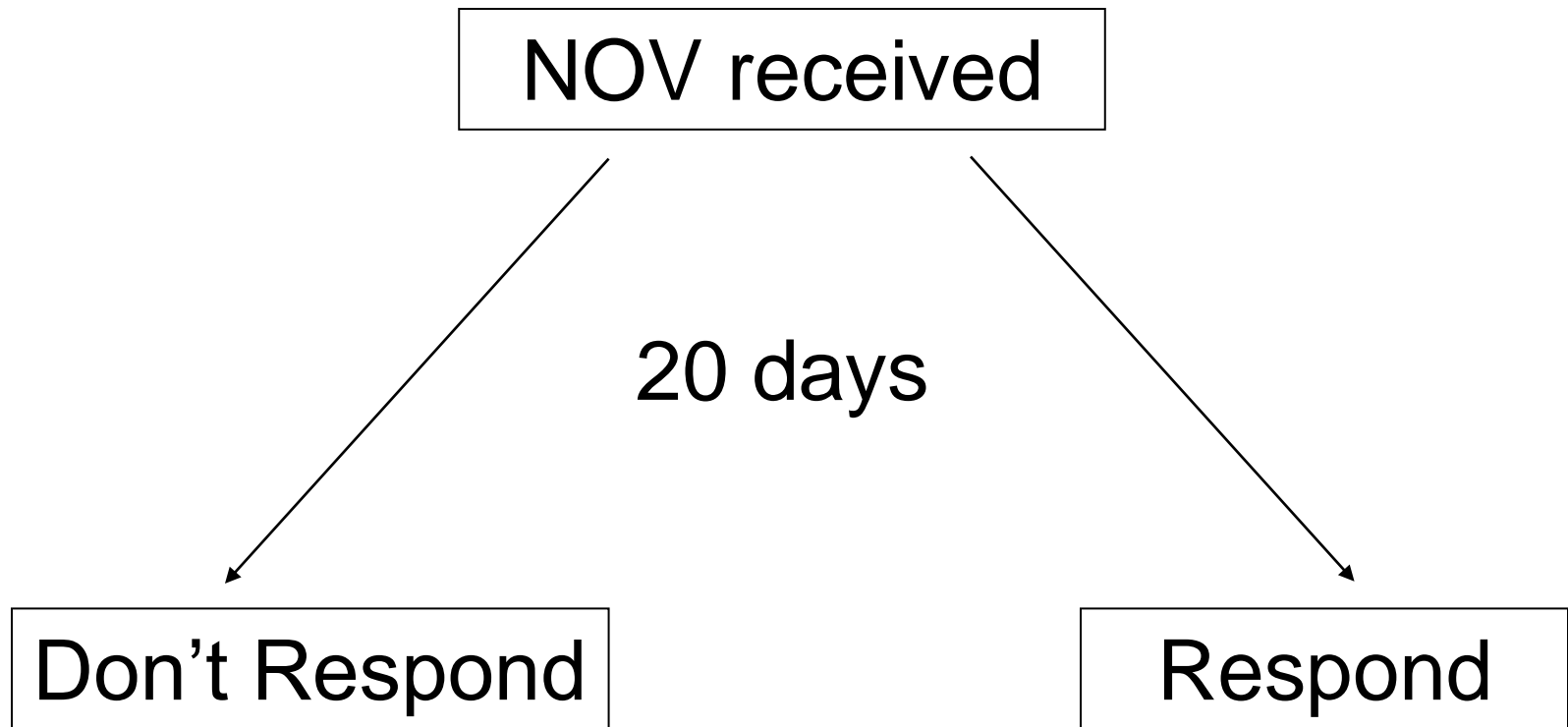
Emergency Orders

- Necessary to meet an emergency or situation of imminent hazard
- May be issued verbally or in writing
- Effective upon issuance
- Request for hearing may be filed in writing within ten business days

“Informal” Enforcement

- Department seeks compliance through cooperation
- Affords suspected violators an opportunity to resolve problems prior to initiation of administrative enforcement proceedings

Administrative Enforcement



Administrative Enforcement

You file an Answer, now what?

- Administrative Hearing Officer (AHO) sets a hearing and schedule
- Schedule includes discovery deadlines, motion deadlines, and briefing schedules
- AHO may issue subpoenas

Administrative Enforcement

- Within 20 days of entry of recommended decision, a party has right to request hearing before the full Commission.
- Commission's decision may be appealed to circuit court

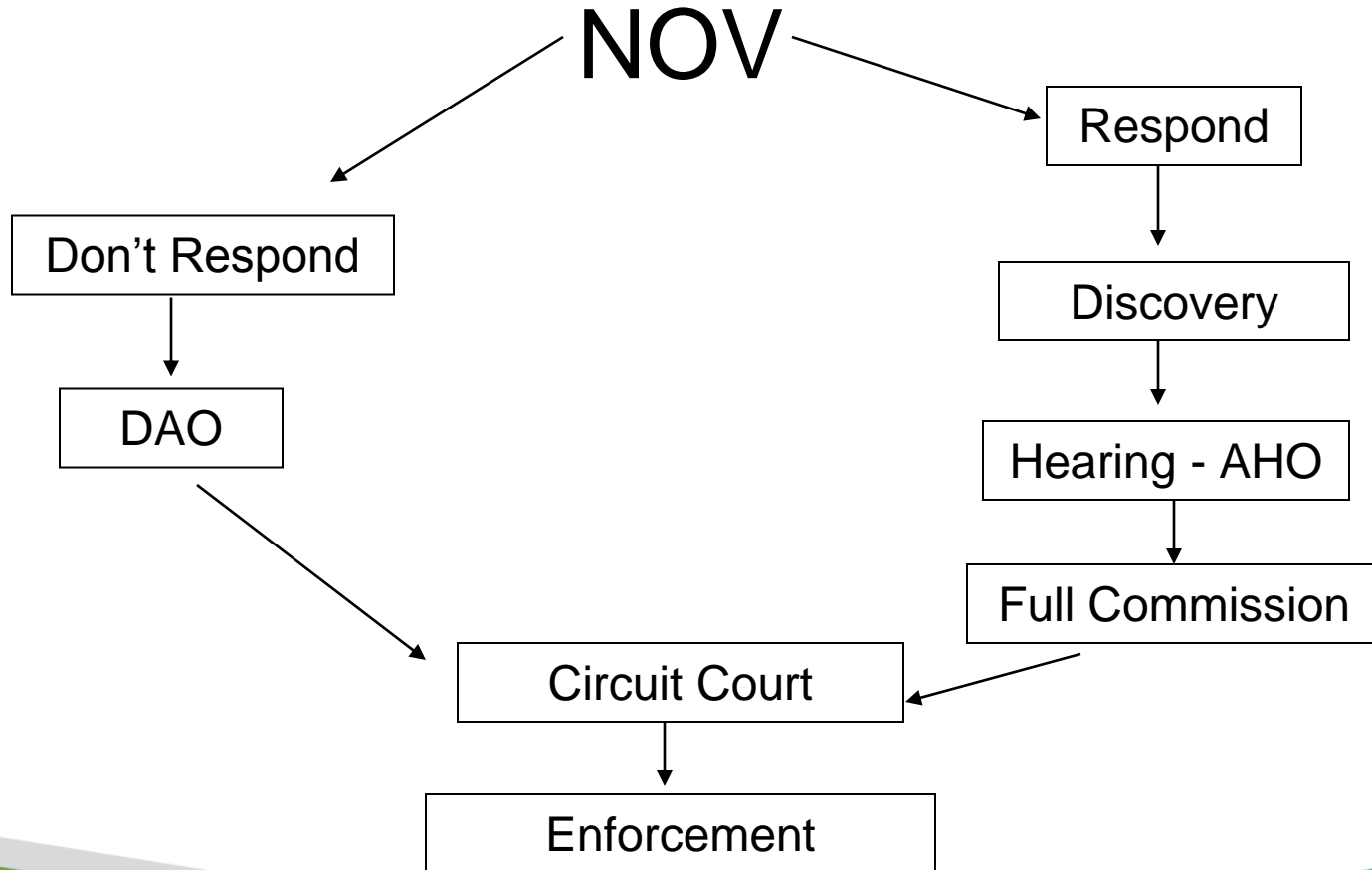
Who can Appeal to the Commission?

- Permittee or permit applicant
- Person named in an NOV
- Commenter of record

Appeal to the Commission

- Request adjudicatory hearing
 - NOV: within 20 days
 - Permits: within 30 days
- Hearing officer's recommended decision
- Commission review
 - Oral arguments
 - Additional evidence
- Circuit court appeal

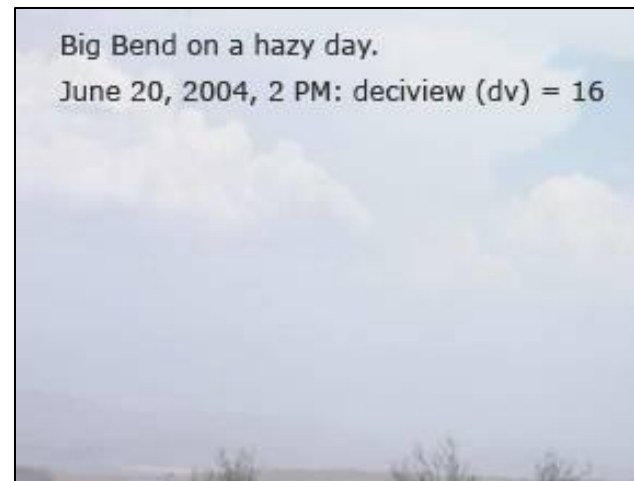
Administrative Recap





State Air Update: Regional Haze

- Intended to address visibility impairment in national parks and wilderness areas.
- 1999 Regional Haze Rule established the goal of achieving background visibility conditions by 2064.
- First planning period: 2008-2018





State Air Update: Regional Haze

- ADEQ submitted a State Implementation Plan (SIP) to EPA on September 9, 2008.
 - In 2012, EPA partially disapproved the Arkansas SIP.
- ADEQ is addressing the disapproved elements identified in the 2012 partial Disapproval:
 - Phase I: addressing NO_x from EGUs – Approved by EPA in 2017
 - Phase II: primarily addressing SO₂ and PM from EGUs; EPA proposed approval published on 11/30/18
 - Phase III: Addressing a paper mill – proposed by ADEQ, but not yet finalized or submitted to EPA for consideration

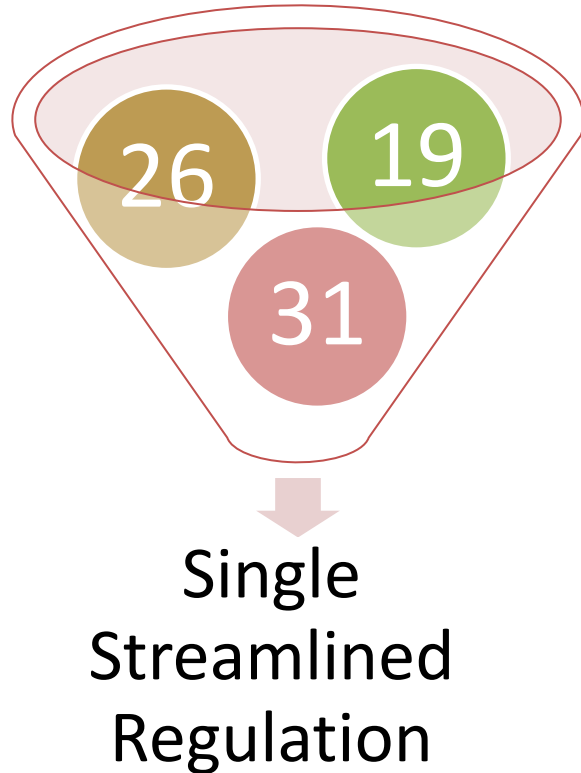


State Air Update: National Ambient Air Quality Standards

- Arkansas is currently in attainment for all criteria pollutants in all counties in the state.
- The 2015 Ozone standard will likely be reviewed by EPA.
- EPA proposed re-designation of Independence County from “unclassifiable” to “attainment/unclassifiable.”



Air Integrated Regulation Project



- Merge four Arkansas Pollution Control Ecology Commission air quality regulations into a single comprehensive and concise regulation:
- Regulation 18: Arkansas Air Pollution Control Code
- Regulation 19: Regulations of the Arkansas Plan of Implementation for Air Pollution Control
- Regulation 26: Regulations of the Arkansas Operating Air Permit Program
- Regulation 31: Nonattainment New Source Review Requirements
- Future rulemakings affecting multiple program areas will not require completing documentation for multiple regulations

Clean Air Act Update: Regulating GHG Emissions from Power Plants

- **Proposal: Repeal the Clean Power Plan** – Would have established emissions guidelines for states to develop plans to address GHG emissions from existing coal-fired power plants.
- **Proposal: Affordable Clean Energy (ACE) Rule** – intended replace the clean power plan with requirements for power plants to establish on-site efficiency upgrades called “heat rate improvements.”

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Clean Air Act Update: Other Rulemakings

- **Proposal: Safer Affordable Fuel-Efficient Vehicle Rule for Model Years 2021-2026** EPA and the National Highway Transportation Safety Administration are proposing to amend the Corporate Average Fuel Economy Standards for passenger cars and light trucks for years 2021-2026.
- **Proposal: New Source Performance Standards for Controlling Methane and Other Emissions from the Oil and Natural Gas Sector** – EPA has proposed changes to leak detection and repair requirements for the oil and natural gas sector.
- **New Source Review policy revisions:**
 - **March 13, 2018** - Memo to EPA Regional Administrators: Project Emissions Accounting Under the New Source Review Preconstruction Permitting Program
 - **December 7, 2017** - Memo to EPA Regional Administrators: New Source Review Preconstruction Permitting Requirements: Enforceability and Use of the Actual-to-Projected-Actual Applicability Test in Determining Major Modification Applicability



Questions?

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