



Environmental Protection: A State-EPA Partnership

Federal Environmental Programs

- ▶ States are co-regulators
- ▶ 96% of federal environmental programs that *can* be delegated *have* been delegated to States
- ▶ State legislative action is critical for an effective partnership and state program primacy

EPA Is Attentive to State Legislative Concerns

- ▶ EPA works closely with NCSL and meets regularly with State legislators
- ▶ EPA Regions are always willing to brief state legislators and provide technical assistance

Executive Order 13132: Federalism

EPA Federalism Program: The Most Proactive in the Federal Government

- ▶ EPA revised its definition of “substantial compliance costs” to \$25 million, triggering Federalism consultation for more rules
- ▶ This has resulted in a nearly ten-fold increase in EPA regulations subject to Federalism consultation
- ▶ EPA consults even if Federalism is not triggered.

EPA's Federalism Process

- ▶ Pre-Proposal Briefing
- ▶ Pre-Proposal Federalism Comment Period
- ▶ EPA Considers Pre-Proposal Comments
- ▶ Proposed Rule
- ▶ Development and Promulgation of Final Rule
- ▶ Federalism Summary Impact Statement (FSIS)
- ▶ Considerations

State Legislatures' Input

- ▶ State legislators craft the authority and resources to implement many federal and all state environmental regulations
- ▶ For example, at least 10 states require legislative approval for State Implementation Plans
- ▶ Legislative calendars may not be conducive to the timing required by federal regulations - we factor this and other issues into our regulations

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The CCR Rule: A Thumbnail Sketch

The CCR Rule: Federalism Impacts the Course of Agency Action

- ▶ In Fall 2009, EPA hosted its first Federalism consultation under its new, more inclusive policy for implementing E.O. 13132, as EPA was considering 2 approaches for regulating CCR
- ▶ More than 200 state and local government officials submitted comments
- ▶ These comments overwhelmingly supported regulating CCR as a solid waste under Subtitle D of RCRA
- ▶ Informed by comments and concerns raised by States and communities, EPA chose the highly protective but less costly Subtitle D-based approach

Questions?

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