



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Expanding the Role of States in EPA Rulemaking/U.S. House of Representatives Environment Subcommittee Hearing: Arkansas Department of Environmental Quality Director Becky Keogh Testimony

05/24/2017

The Environment Subcommittee of the United States House of Representatives Committee on Science, Space and Technology ("Committee") held a May 23rd hearing titled:

Expanding the Role of States in EPA Rulemaking("Hearing")

Arkansas Department of Environmental Quality ("ADEQ") Director Becky Keogh testified at the *Hearing*.

The focus of the *Hearing* was the Administration's stated goal of providing a larger role to the states on environmental policy. The Subcommittee Chairman (Andy Biggs) references the United States Constitution's 10th Amendment and argues in a written introduction statement:

Unfortunately, the previous Administration must have skimmed over that part of the Constitution, deciding instead to impose complete control over states and their economies. This was certainly the case with the Environmental Protection Agency. Far too often, states found themselves forced to comply with costly and unachievable environmental standards, all for little or no benefit.

The Subcommittee Chairman cites as a concern the United States Environmental Protection Agency's reduction of the national ambient air quality standard for ozone from 75 parts per billion to 70 parts per billion in 2015. His concern is expressed that southwestern states may be unable to comply because of geographic location (citing "naturally occurring ozone emissions").

ADEQ Director Keogh stated in her testimony that she has been a:

... vocal proponent of returning environmental rulemaking to its constitutional roots, something known as cooperative federalism. Unfortunately, over the past eight years that once noble partnership that balanced state and federal responsibility and accountability had morphed into something better described as coercive federalism, where the state was more pawn than partner.

Ms. Keogh notes that Arkansas has been authorized to administer every federal environmental program that EPA can delegate. However, she expresses concern about the relationship between some states in the prior Administration. Cited in her testimony was correspondence between the prior EPA and the

United States Department of Justice in which ADEQ lawyers were inadvertently copied on an email chain which referenced Arkansas as a “recalcitrant” litigant. She states:

And, at times, we were. It was the only course left available to states that would not assimilate and accept the EPA overreach.

Both a policy and an observation by Little Rock, Arkansas, Catholic High Principal Steve Streassle are referenced in Ms. Keogh’s testimony. His policy of mandating that students take responsibility for remembering things such as their lunch, homework, etc., along with his observation of certain tree growth from a hike with his children are cited. The Director equated Streassle’s observation in regards to the ability of certain trees to flourish despite limited soil with the state’s similar efforts to be efficient in effecting environmental concerns with limited resources.

Key substantive focuses of Ms. Keogh’s testimony were SO₂ designations and regional haze.

The other two witnesses testifying at the hearing were:

- Misael Cabrera, PE – Arizona Department of Environmental Quality Director
- Deborah Swackhamer, Ph.D. – Professor Emerita University of Minnesota

[A copy of ADEQ Director Keogh’s written statement can be downloaded here.](#)