



Walter Wright, Jr.

wwright@mwlaw.com

(501) 688.8839

Acting U.S. Environmental Protection Agency Administrator Andrew Wheeler Senate Confirmation Hearing: Issues Addressed

01/18/2019

The United States Senate Environment and Public Works Committee ("Committee") held a confirmation hearing this week for President Trump's nomination of Acting U.S. Environmental Protection Agency ("EPA") Administrator Andrew Wheeler to remain permanently in the position.

The Committee provided Senators an opportunity from both sides of the aisle to ask a variety of questions of Mr. Wheeler about his views on various issues including future EPA activities.

Mr. Wheeler's confirmation is a foregone conclusion. Republicans hold a 53-47 majority. Nevertheless, Mr. Wheeler's testimony and his response to various questions provides some insight as to certain issues that will be addressed by EPA in the remainder of the current Administration.

Arkansas Senator Boozman is a member of the Committee and participated in the hearing.

A select sampling of the issues discussed include:

- Senator Boozman questions
- Wheeler agrees with the Senator that EPA is making an effort to visit and connect with rural America
- Senator Boozman also noted in part in addressing Wheeler:

First of all, I want to thank you and your staff for your timely response. We have an issue going on in Bella Vista, Arkansas, with a fire that has to do with a stump disposal. Your staff has been very, very good. This is the state's problem but you do have the expertise on staff to help them.

- PFAS
- Wheeler notes National Leadership Summit and "listening sessions"
- References pending Action Plan
- Action Plan may be delayed by the shutdown
- Action Plan would utilize a number of statutory authorities
- Refuses to commit to establish a Safe Drinking Water Act Maximum Contaminant Level for PFAS within two years
- Wheeler discusses upcoming revisions to the Safe Drinking Water Act Lead and Copper Rule
- Lead service line replacement
- Wheeler states new grant program will be coming online
- Agreed with the need to more fully fund requirements in the America's Water Infrastructure Act
- Enforcement

- Wheeler contended enforcement statistics are not necessarily an appropriate measure of success
- Compliance assurance is in his view a possible better strategy
- Ethanol/E15
- Regulatory action will be taken before the summer driving season
- Qualifies rule promulgation schedule depending upon length of partial government shutdown
- Clean Act Mercury and Air Toxics Standards
- Wheeler responds to criticism of EPA's reconsideration of the Obama-era rule
- Disputes the likelihood that power plant emissions control technology will be turned off
- Climate change
- Wheeler characterizes as a "huge issue that needs to be solved globally"
- States he has not used the word "hoax" in regards to climate change and believes man has an impact
- States while a huge crisis, not the greatest crisis
- Affordable Clean Energy Rule (replacing Clean Power Plan)
- Wheeler argues that EPA career staff estimate the rule will cut carbon emissions from the power sector 34% from 2011 five levels in the next 11 years
- Responded to Democrat Committee members questioning the assumptions behind the rule
- Small Refinery waiver request/renewable fuel standard
- Responds to a question stating that EPA will continue to review individual waiver requests
- States that waivers are based on individual refiners as opposed to their parent companies
- Children's Lead Action Plan
- Addresses a Committee member's comment that the plan has an objective of reduction of children's risks as opposed to elimination
- Wheeler responds to the above question stating that EPA would adopt the goal of eliminating lead risks
- Comprehensive Environmental Response Compensation Liability Act/Superfund program
- Notes that EPA deleted all or part of 22 sites from the National Priority List in 2018
- Testifies that deletion of 22 sites was the largest number since 2005
- WIFEA Loan Program
- References seven loans totaling over \$1.5 billion during the initial phase of the program
- References an additional 39 projects that have been invited to apply for loans
- Clean Truck's Initiative
- Testifies regarding NO_x emissions from heavy duty trucks
- Not subject to mandatory reductions/but makes sense to do so
- Fuel efficiency standards(CAFE)/tailpipe emissions
- In response to a question references continuing desire for a "50-state deal"
- Testifies EPA has been working with states that have more stringent CAFE standards
- Clean Water Act/Waters of the United States definition
- In response to a question states:

The overarching guiding principal that I gave the staff in creating the WOTUS rule was that I believe any property owner should be able to stand on his or her property and be able to tell for themselves whether or not they have waters of the U.S. on their property without having to hire an outside consultant or an attorney.

- Testifies that even if a water is not a water of the U.S. it does not mean it is not protected at the state level
- Stormwater Infrastructure Funding Task Force
- In response to a question commits to development of the Task Force
- Efforts are stated to be underway to set up the Task Force

A link to the Senate Environment and Public Works Committee transcript can be found [here](#).

https://www.epw.senate.gov/public/_cache/files/3/e/3ebcc965-8fbc-4640-b156-b8b59c7f1ed8/491AE0ED41EC837436349770F1AE9379.spw-011619.pdf