

Pruitt Opponents Target Nominee's Federalism Approach As 'Shell Game'

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Democrats and environmentalists are seizing on statements and past lawsuits by Trump administration EPA nominee Scott Pruitt to make the case that he would hamstring EPA's authority to set nationwide environmental standards, even as states are welcoming many of the same signals as signs that he would focus on cooperation with them.

During a Jan. 24 panel discussion on Pruitt's nomination hosted by Democrats on the Senate Environment & Public Works Committee (EPW) -- held in lieu of a second day of confirmation hearings -- senators on the committee and Trump critics serving as witnesses both argued that his professed belief in a cooperative federalist approach to environmental policy is a "shell game" used to justify weakening federal regulations no matter what.

However, John Linc Stine, commissioner of the Minnesota Pollution Control Agency and president of the Environmental Council of the States (ECOS) that represents many state environment agencies, told *Inside EPA* on Jan. 25 that Pruitt's statements on federalism seem to be a promising sign for relations between the Trump EPA and states.

"We appreciate the focus on state-EPA relationship. I think we all agree that states and EPA are joined at the hip with implementation of environmental laws. . . . But, I think it's true that laws and the delegation agreements are set up for states to be on the front line" as Pruitt has said, Stine told *Inside EPA*.

At the Jan. 24 panel, John Walke, director of the Natural Resources Defense Council's climate and clean air program, told legislators that Pruitt's statements include an "unnerving implication" that he does not believe EPA has a major role to play in curbing pollution within state boundaries, calling it an "extreme and harrowing position" that has never been advanced by a senior agency official and runs counter to the major environmental statutes that give EPA a central regulatory role in curbing pollution.

At his Jan. 18 hearing before the full EPW, Pruitt told the committee that the Obama administration repeatedly overstepped the bounds of environmental laws in crafting nationwide stringent regulations -- a common argument among the GOP. He went on to reiterate his past statements that EPA "was never meant to be our nation's front-line environmental regulator," and that states should have that job with federal regulators acting as a backstop.

Sen. Sheldon Whitehouse (D-RI) during the Jan. 24 panel countered that Pruitt's approach has been to invoke states' rights as an excuse to avoid enforcing any federal standards. He described the philosophy as "shell game federalism," where environmental enforcement is always under another shell and "when you lift them all up it's nowhere to be had."

However, Stine told *Inside EPA* that he sees the "front-line regulator" comment as a simple statement of the fact that states, not EPA, are responsible for most direct enforcement of environmental policies. "In practice and in implementation, the vast majority of the work in protecting air, land and water quality . . . that's by and large the states' job," he said.

EPA's Role

And Sen. Cory Booker (D-NJ) pointed to Pruitt's suit against EPA over its Cross-State Air Pollution Rule (CSAPR) as a situation where he tried to stop the agency from exercising that backstop role by blocking restrictions on interstate pollution.

Booker said Pruitt “fought EPA but then when it came to his own state he fought against” stricter emissions controls. He added, “Do you believe that states should have rights or do you believe that corporations should have the right to pollute?”

Democrats are hoping to muster opposition to Pruitt that could be broad enough to block his confirmation, which would require swinging at least three Republican votes as the Senate is split 52-48 -- and likely more than that, since red-state Democratic senators like Joe Manchin (WV) are likely to support him. That appears unlikely after the Jan. 18 EPW hearing, where Republicans universally backed Pruitt against attacks on his record and views.

Despite voicing support for Pruitt’s statements, Stine said there has already been a “missed opportunity” for the Trump EPA to work more closely with states as it implements its agenda, because the administration did not warn state regulators when it issued a temporary freeze on many existing grants and contracts.

Stine said he was told after the fact that the freeze is to allow the administration to take stock of current operations at EPA, and should end by Jan. 27. “We didn’t really connect as well as we could have, and I think that’s a learning experience for ECOS and for EPA,” he said.

He continued that while the freeze does not appear to cover “baseline” grants such as the state revolving funds that support water infrastructure projects, it could still affect states’ operations since many environmental programs rely on other federal grants.

“Most of us could probably operate a number of weeks without clarity, but beyond a few weeks, there are state risks to budgets that have to be considered,” he said.

And he added that “We don’t know what parameters are being used [in the review]. I think it’s understandable that somebody coming in with a new administration wants to understand what’s going on . . . but we’ve had a hard time getting any communication about what specifics are being reviewed.”

Stine said he hopes ECOS can collaborate and communicate more effectively with EPA “the next time around.”
-- *Bridget DiCosmo* (bdicosmo@iwppnews.com) & *David LaRoss* (dlaross@iwppnews.com)

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