On Wednesday, March 9th, state regulators from across the country testified in front of the Senate Committee on Environment and Public Works about the difficulties they face as co-regulators with federal agencies.

State officials cited frequent issuance of regulations, fiscal limits and the Environmental Protection Agency’s lack of consultation with the states during the rule-making process as factors hemming the abilities of the states to meet statutory obligations and provide for the needs of citizens at the same time. State officials were, however, divided along party lines on where to place the blame for stringent federal regulations.

Chairman James Inhofe (R-OK) questioned the EPA’s overreach, emphasizing coercion of states under the Clean Power Plan, introduced by President Obama in August 2015. The EPA has “embarked on an unprecedented regulatory agenda that simply runs over states,” the Chairman said, “by imposing an increasing number of federal regulatory actions while requesting even less funds to help states carry out these actions.”

Steven Pimer, Secretary of the South Dakota Department of Environment and Natural Resources, agreed, noting that grant funding for the state has been in decline since 2012, a trend which “is certainly inverse to the huge increase in federal requirements for delegated programs.”

In response, Randy Huffman, Cabinet Secretary of West Virginia’s Department of Environmental Protection, argued that there must be a limit on the number of regulations the EPA can impose. Regulations are necessary to help states remain in compliance with EPA standards; however micromanagement of regulatory details may constitute a violation of state’s rights, Huffman said.

Along the same lines, Sen. Boozman (R-AR) expressed concern that the EPA’s recent use of regulatory powers could result in unfunded mandates. Unfunded mandates, which are regulations states must follow without the provision of federally mandated funds, cost states around $77 million in 2015, according to a report by the Congressional Budget Office.

Sen. Barbara Boxer (D-CA) called on the EPA to establish rules that differentiate between limits on the production of pollution and state pollution levels. Although pollution is produced in one state, prevailing winds and air currents can carry pollution to other states, shifting the air pollution burden from the producer state to another.

Deborah Markowitz, Secretary of the Vermont Agency of Natural Resources, agreed, and cited air pollution transport as an issue particularly for states in the North East who are down-wind from coal producing states in the West. Markowitz argued that consistently including states in the rule making process could better tailor rules to specific states across the nation, rather than compelling states to adhere to a blanket national standard. Across the board national minimum standards, Markowitz argued, are unhelpful, because states all have different needs.
Sen. Rounds (R-SD) echoed Markowitz’s concerns, explaining his own concerns with ozone levels in South Dakota. New limits on nation-wide ozone levels put South Dakota, for example, out of compliance with EPA regulations, with no available resources to fix the issue. States are closest to the people, Sen. Rounds argued, thus are in the best position to provide input for regulations that will ultimately affect the states.

By:
Monday, March 14, 2016 at 11:36 AM
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