



ENDANGERED SPECIES LAW AND POLICY

Arizona becomes the First State to Eliminate Chevron Deference

By Ashley Remillard on April 12, 2018

Posted in Congress, Legislation

On April 11, 2018, Arizona Governor Doug Ducey signed into law H.B. 2238, which amended the state's administrative procedure laws to provide that courts are not required to defer to an agency's legal interpretation in lawsuits over administrative decisions. The amendment effectively eliminated "Chevron deference," which requires courts to defer to an agency's reasonable interpretation of an ambiguous statute.

The legal doctrine—named for the 1984 Supreme Court decision in *Chevron U.S.A. Inc. v. Natural Resource Defense Counsel, Inc.*, 467 U.S. 837, 842-844 (1984)—has been criticized by various judges, including U.S. Supreme Court Justice Neil Gorsuch (then sitting on the Tenth Circuit). The U.S. Senate has also unsuccessfully attempted to repeal the doctrine. Other Supreme Court Justices, as we reported here, are not inclined to disturb the well-established law.

The Arizona law is the first state law of its kind. Arizona lawmakers are hopeful that the law may serve as a model for other states or Congress. If a similar bill is able to successfully pass through Congress and become law, it will have far reaching consequences for cases challenging agency decisions made pursuant to the Endangered Species Act.