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**Committee:** Senate Homeland Security & Government Affairs Subcommittee on Border Management, Federal Workforce & Regulatory Affairs  
**Event:** [The Future is Loper Bright: Congress' Role in the Regulatory Landscape](#)  
**Date:** July 30, 2025  
**Time:** 2:00 PM  
**Place:** 342 Dirksen Senate Office Building

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***Member Toplines:***

Chair James Lankford (R-OK)<sup>1</sup>: Lankford highlighted Congress' renewed responsibility in regulatory oversight following the Supreme Court's decision in [Loper Bright Enterprises v. Raimondo](#) (*Loper Bright*). He stressed that federal agencies can no longer rely on vague statutes to expand their authority and called on Congress to write clearer laws and rein in regulatory overreach. Lankford also highlighted the decision in [Corner Post v. Board of Governors](#), which changed the statute of limitations for challenging agency actions to begin when a person is harmed by the rule, rather than when the rule was first issued. He noted this shift could lead to new legal challenges against long-standing regulations.

Ranking Member John Fetterman (D-PA)<sup>2</sup>: Fetterman acknowledged that the Supreme Court's decision in *Loper Bright* has real-world consequences for everyday Americans. He emphasized that federal agencies often either overreach or fall short in implementing laws, and the courts have played a key role in correcting that balance. Fetterman explained that the *Loper Bright* decision marks a major shift and urged Congress to focus on how this change will affect issues like clean water, safe cars, and public health.

***Witness Toplines:***

[Allyson Schwartz, Senior Fellow, Bipartisan Policy Center](#): Schwartz emphasized that the *Loper Bright* decision presents both a challenge and an opportunity for Congress to strengthen its legislative processes and reaffirm its constitutional responsibility. She stressed the need for more precise statutory language, greater investment in congressional expertise, and a return to regular order through robust committee work and public input. Schwartz called for improved collaboration between Congress and regulatory agencies to ensure the law reflects clear intent.

[Susan Dudley, Distinguished Professor of Practice, George Washington University's Regulatory Studies Center](#): Dudley outlined four key recommendations for Congress in response to the *Loper Bright* decision, which ended judicial deference to agency interpretations of ambiguous statutes. She emphasized that while courts will now determine legal meaning, agencies will likely continue to receive deference in factual analysis and policy judgment. Dudley urged Congress to write clearer statutes by distinguishing between legal, factual, and policy

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<sup>1</sup> Opening statement was not available online at the time of this memo's distribution.

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questions; require transparency around the scientific assumptions underlying regulations; provide clear guidance on weighing tradeoffs through tools like cost-benefit analysis; and promote retrospective review of regulations. She also recommended creating a congressional regulatory office, similar to the Congressional Budget Office, to support lawmakers in drafting clearer legislation.

[Chad Squitieri, Assistant Professor of Law, Catholic University of America's Columbus School of Law](#): Squitieri praised the *Loper Bright* decision for curbing judicial deference to agency interpretations of statutes, but noted that it leaves other areas of agency authority, such as regulatory interpretation and policy discretion, untouched. He urged Congress to eliminate judicial deference to agency interpretations of their own regulations, as outlined in [Kisor v. Wilkie](#), and to more clearly define the limits of agency policymaking authority. Squitieri also recommended that Congress include statutory “speed bumps,” such as specific factors agencies must consider when making policy decisions, to ensure greater accountability.

### **Major Takeaways:**

- Members emphasized that Congress, not agencies, must now take responsibility for clear, specific rulemaking in light of the Supreme Court’s *Loper Bright* decision.
  - Lankford warned that vague laws invite agency overreach and called on Congress to reclaim its Article I authority by rebuilding its “muscle memory” for legislating.
  - Lankford stressed that statutory ambiguity should not be treated as permission for agencies to decide complex issues, and that Congress must stop deferring hard decisions to the executive branch.
  - Fetterman acknowledged that political compromises lead to unclear legislation and urged Congress to be ready to act when courts reinterpret statutes.
- Sen. **Maggie Hassan** (D-NH) warned that rigid drafting requirements could hamper agencies’ abilities to apply expertise and respond to changing conditions
  - Hassan expressed concern that the *Loper Bright* decision may undercut evidence-based policy, especially in science-driven areas.
  - She also called for legislation to include clear goals and performance metrics to guide implementation while preserving adaptability.
- Lankford proposed creating or expanding legislative support structures to help identify overly broad or ambiguous language.
  - Lankford recommended a legislative counsel or similar entity to the Office of Information and Regulatory Affairs to help identify provisions that unintentionally delegate excessive authority.
  - He suggested Congress make greater use of floor statements and legislative history to clarify intent for agencies and courts.
  - Lankford also noted that courts may face new legal challenges as agencies try to reissue older regulations, questioning whether rules previously upheld can legally return in the same form under the new *Loper Bright* standard.