



Written by [Bob Adelman](#) on March 5, 2014

EPA Wants to Snuff out Wood and Pellet Stoves

It took more than six weeks before the [new EPA rules](#) on wood and pellet stoves percolated into the media, which then generated pushback ranging from anger to outrage.

The new rules impose a maximum of fine airborne particulate emissions from 15 micrograms per cubic meter of air down to 12. As Larry Bell, writing at *Forbes*, put it:



To put this amount in context ... secondhand tobacco smoke in a closed-car can expose a person to 3,000-4,000 micrograms of particulates per cubic meter.

That will virtually end the burning of wood for heat or cooking in the United States, according to Reg Kelly, the owner and operator of Earth Outdoor Furnaces in Mountain Grove, Missouri: “There’s not a stove in the United States that can pass the test right now — this is the death knell of any wood burning.”

The pushback is political as well. Rep. Tim Remole (R-Mo.) happens to have a wood stove in his rural Missouri home, and is encouraging lawmakers in his state to declare that “All Missourians have a right to heat their homes and businesses using wood burning furnaces, stoves, fireplaces and heaters.” Legislation was introduced to ban Missouri’s environmental officials from regulating wood heaters unless specifically authorized by the state’s legislature.

Why doesn’t this work on the national level? Why doesn’t the legislative branch — the Congress — put the blocks to the EPA when it so clearly oversteps its bounds?

The simple answer is that it is guilty of approving President Nixon’s executive order back in 1970 which established the EPA in the first place. The fact that executive orders are nowhere mentioned in the republic’s founding document makes Nixon’s order unconstitutional on its face. As explained by John Contrubis, a legislative attorney in the American Law Division of the Congressional Research Service,

There is no exact meaning [of executive orders] since neither the Framers of the Constitution nor Congress defined executive orders or proclamations....

As executive orders and proclamations are not defined in the Constitution, there is also no specific provision in the Constitution authorizing the President to issue executive orders.

The House itself agreed. It called executive orders like the one that Nixon issued illegal and nonbinding:

The President has no power or authority over individual citizens and their rights except where he is granted such power and authority by a provision in the Constitution or by statute.

The President’s proclamations are not legally binding and are at best hortatory unless based on such grants of authority.



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For the House to put an end to the EPA monster it would have to repudiate its initial acceptance of the EPA as legitimate, admit that executive orders are nonbinding, and reverse years and decades of acceptance and obeisance.

From its inauspicious and unconstitutional beginning, the Environmental Protection Agency now has more than 17,000 employees (not counting contractors working for the agency which some estimate would double that number) with a budget approaching \$10 billion annually.

And much of its work takes place behind closed doors and is heavily, if not completely, influenced by the environmental movement. Last October attorneys general from some of the most liberal states in the union — Massachusetts, Connecticut, Maryland, Rhode Island, Vermont, New York, and Oregon — filed suit against the EPA claiming that its then-current wood stove regulations didn't include wood burning heaters as well. The lawsuit was promptly joined by numerous environmental groups, including Earthjustice, the Environmental Defense Fund, the Clean Air Council, and Environment and Human Health, Inc.

This smacks of “[sue and settle](#)” tactics used by environmental groups friendly to the EPA to accelerate its ruling-making without having to undergo public feedback or review by the Congressional Budget Office. As *Forbes* contributor Bell explained,

“Sue and settle” practices, sometimes referred to as “friendly lawsuits”, are cozy deals through which far-left radical environmental groups file lawsuits against federal agencies wherein court-ordered “consent decrees” are issued based upon a prearranged settlement agreement they collaboratively craft together in advance behind closed doors.

Then, rather than allowing the entire process to play out, the agency being sued settles the lawsuit by agreeing to move forward with the requested action both they and the litigants want.

This has been going on for years, according to the U.S. Chamber of Commerce’ Senior Vice President William Kovacs:

We found that under this sue and settle process, EPA chose at some point not to defend itself in lawsuits brought by special interest advocacy groups at least 60 times between 2009 and 2012.

In each case, it agreed to settlements on terms favorable to those groups. These settlements directly resulted in EPA agreeing to publish more than 100 new regulations, many of which impose compliance costs in the tens of millions and even billions of dollars.

Under this procedure, the EPA accomplishes the purposes and goals of the environmentalists without public exposure or input from the damaged parties:

When such lawsuits were initiated, EPA does not disclose the notice of the lawsuit or its filing until a settlement agreement had been worked out with the private parties and filed with the court.

As a result, court orders were entered, binding the agency to undertake a specific rulemaking within a specific and usually very short time period, notwithstanding whether the agency actually had sufficient time to perform [its] obligations.

In sum, the illegal and unconstitutional EPA is now being guided and directed by environmental groups through sue and settle lawsuits to implement illegal and unconstitutional — and now completely opaque — rules and regulations upon American citizens.

Merely complaining about those regulations and iterating the negative impacts they have had, are



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having, and will continue to have on citizens will do little to slow the advance of green totalitarianism. The EPA must be defunded, pulled out root and branch, and proper legislative responsibilities restored to the states and the Congress, as the Constitution originally and most carefully and deliberately declared.

A graduate of Cornell University and a former investment advisor, Bob is a regular contributor to The New American magazine and blogs frequently at www.LightFromTheRight.com, primarily on economics and politics.



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