



EPA TO END SETTLEMENTS AND CONSENT DECREES

EPA Administrator Scott Pruitt issued a directive moving to end consent decrees and settlements. The directive is aimed at limiting people, communities, and organizations from taking the agency to court when it is not complying with the law or fails to enact or enforce regulations on the books. The effect of this directive could be to give the EPA more time to delay enforcement of environmental laws including the Clean Water Act and Clean Air Act, and to discourage people from seeking justice in a court or law. Ultimately, all it will accomplish is to put the public's health and safety at risk.

The directive could force parties into protracted litigation, even when the agency openly acknowledges that it has broken the law by, for example, missing a statutory deadline for adopting controls that would protect the public from dangerous pollutants. Prior to this directive, when a member of the public filed a claim against the government for not complying with some clear legal requirement, the government was able to engage in settlement discussions with the party that brought the suit, and take responsibility for its unlawful conduct by agreeing to take the action already required by law by a certain date.

This directive would prevent or restrict the government from accepting responsibility for its illegal conduct, instead forcing both parties to engage in unnecessary litigation, putting a strain on the resources of both members of the public and the federal government, and prolonging the harms to the public that result from the agency's failure to comply with the law. It could also have a chilling effect on parties bringing suits seeking to compel government action if they know costly and prolonged litigation will be necessary to obtain relief.

The directive also bars the agency from agreeing to pay attorney's fees to the party that brings these suits, forcing members of the public to litigate further to recover those fees, and making it that much more difficult to hold the government accountable to the people, even where it admits that it has not complied with the law. This sets up an unfair burden to individuals and communities, especially those that are unable to shoulder the burden of costly litigation.

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