

# 12 states challenge EPA over 'sue and settle' practices

By Fox News

Oklahoma Attorney General Scott Pruitt and the attorneys general of 11 other states sued the Environmental Protection Agency Tuesday, demanding that the agency turn over documents the states allege will show the agency cooperates with environmental groups as part of a "sue and settle" legal strategy to develop regulations.

The lawsuit, filed in U.S. District Court in Oklahoma City, alleges that binding consent decrees between the EPA and environmental groups that have sued the agency over the years have led to new rules and regulations for states without allowing their attorneys general to defend their interests and those of its businesses and consumers.

"The EPA is picking winners and losers, exhibiting favoritism, at the expense of due process and transparency," Pruitt said in a statement. "They are manipulating our legal system to achieve what they cannot through our representative democracy. The outcomes of their actions affect every one of us by sticking states with the bill and unnecessarily raising utility rates by as much as 20 percent."

Besides Oklahoma, the attorney generals of Alabama, Arizona, Georgia, Kansas, Michigan, Nebraska, North Dakota, South Carolina, Texas, Utah and Wyoming are parties to the lawsuit.

EPA's press secretary in Washington, D.C., Alisha Johnson, denied allegations that the agency cooperates with environmental groups to develop regulations.

"We have no input or control over what parties sue us or what issues they focus on," Johnson said.

Pruitt said as many as 40 lawsuits have been filed against EPA over the years by such environmental groups as Greenpeace, Defenders of Wildlife, WildEarth Guardians and the Sierra Club that have led to consent decrees, "sometimes on the same day the lawsuit is filed," that include terms and conditions that go beyond statutory guidelines approved by Congress.

"I would look at that very suspect and say: 'What's going on?'" Pruitt said. "The EPA is picking winners and losers. These cases affect Oklahoma's ability to do its job."

Johnson said EPA does not enter into legal settlements that give the agency new or additional authority.

"An outside entity cannot compel us to take action we were not already compelled to take by law," she said.

The states' lawsuit seeks to enforce federal Freedom of Information Act guidelines involving the states' request for letters, emails and any other correspondence between the EPA and environmental organizations before they sue the agency. The attorney generals want to analyze the documents to determine the nature of EPA's legal strategy concerning environmental groups.

In one instance, the lawsuit says the states made a FOIA request to EPA in February seeking records about the agency's negotiations with environmental groups that led to binding consent decrees concerning state implementation plans for the EPA's regional haze guidelines under the Clean Air Act.

Pruitt is challenging regional haze guidelines for Oklahoma in federal court. Utility officials have said the regulations could cause electricity rates to rise 13 percent to 20 percent in three years.

"It's a regulation-through-litigation type of initiative," Pruitt said. "And we are not even a party to that litigation. That's a troublesome thing."

The states also asked the agency to waive any fees for collecting the information, a request the agency denied. In a May 31 letter to Pruitt's office, the agency said the states' FOIA request "fails to adequately describe the records sought."

"EPA's denial of the states' FOIA request is consistent with their apparent protocol to avoid compliance with FOIA by telling requesters that their FOIA request is overbroad," the lawsuit alleges.

"Ninety-two percent of the time EPA grants fee waiver requests from noncommercial requesters who are supportive of EPA's policies and agendas, but denies a majority of fee waiver requests from noncommercial requesters who are critical of EPA," the complaint states.

Pruitt said a majority of the states' requests for information have been rejected.

"We are deserving of information from the EPA," the attorney general said. "They've routinely said no, period."

Johnson said FOIA rules require that requesters describe the records they want so they can be located with a reasonable amount of effort.

*The Associated Press contributed to this report.*