

NRDC ISSUE BACKGROUNDER

Post-Election, ALEC Redoubles Its Assault on Health and the Environment at the State Level

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OVERVIEW

Just as newly empowered Republicans in Congress are gearing up to attack the standards that protect our families and our health from dangerous air and water pollution, the shadowy but powerful right-wing group known as ALEC is launching a parallel assault on environmental and health protections in state legislatures around the country—even calling for the elimination of the U.S. Environmental Protection Agency.

The controversial American Legislative Exchange Council provides a secretive mechanism for its industrial-polluter members to create model legislation for industry-friendly state legislators to introduce as their own bills. ALEC has long pushed a pro-polluter agenda, but as ALEC members gather in Washington this week for their annual policy summit, they are redoubling their efforts to gut basic health and environment safeguards.

Just one example of this year's extremist agenda: 'Abolish the Environmental Protection Agency' is one of the "model resolutions" that ALEC is flogging to its secret list of member state legislators. Leaked documents show some of the country's most notorious polluters are corporate members of ALEC (the corporate membership list is also secret), and the Koch brothers are major funders of its operations

At the three-day conference, ALEC will be presenting a fuller-than-ever slate of anti-environment proposals for state legislatures, many of which also flipped to Republican control last month. ALEC also will hear from political consultant and PR-hitman Richard Berman, dubbed Dr. Evil by *60 Minutes*, who [infamously boasted](#) in a recently recorded speech that he tries to dig up dirt on environmentalists' personal lives on behalf of oil and gas interests to distract from climate issues. Besides replacing EPA, ALEC wants state legislatures to repudiate, either through non-binding resolutions or substantive bills, new ozone standards to reduce smog and proposed limits on carbon pollution from power plants. ALEC has already approved three model bills in the last year opposing EPA's carbon pollution standards, and after this conference it will add two more.

CONTEXT OF ALEC CONFERENCE

ALEC is doubling down on a post-election anti-environment agenda even though polls show that the voters gave the Republicans no mandate to pollute—the laws to protect our health and our air and our water remain popular. And it comes even after a number of major tech firms cut ties with ALEC in the last four months over the organization's extremist climate-denial positions, including Google, Facebook, Yahoo, Yelp, Microsoft, AOL and SAP Software. Speaking about ALEC and climate denial, Google Chairman Eric Schmidt said, "They're just literally lying." (This led to the unconvincing spectacle of ALEC officials denying they are climate deniers, and trying to claim their positions were aligned with NRDC's—a claim that [NRDC](#) forcefully shot down.)

This week, more than 100 organizations released a [letter to state lawmakers](#) pointing out ALEC's attempts to hide its climate denial agenda and its obstruction of clean energy policies, urging legislators not to affiliate with ALEC and to demand that ALEC reveal its corporate members.

Once ALEC's model policies are finalized after this conference, state legislators will likely introduce them into state houses around the country, and they almost never disclose that the bills' real authors are ALEC's corporate-polluter members.

"ALEC is a means for businesses to promote a vehemently anti-environmental agenda without leaving their fingerprints," said David Goldston, NRDC's Director of Government Affairs. "The radical and self-serving nature of its efforts needs to be exposed, and those efforts must be stopped."

UNDERSTANDING THE ALEC AGENDA

Here are some of the major topics before ALEC this week, based on ALEC's recent [memo](#) to its members:

A Dubious Pro-environment Statement of Principles

Burned by the defections of high-profile corporations over its dirty energy policies, ALEC concocted a new mission statement to "promote a healthy environmental legacy." Of course for ALEC, this means relying almost exclusively on corporations policing themselves, even though history demonstrates that government intervention is often required to correct market failures and account for pollution externalities. (Reluctantly, ALEC admits that removing lead from gasoline was not a bad idea.) And despite this new mission statement, *none of ALEC's model bills actually aims to reduce pollution or protect the environment.*

Abolishing Environmental Protection Agency

The most extreme proposal on ALEC's December agenda would abolish the US Environmental Protection Agency. ALEC has a long history of opposing EPA's environmental safeguards, but this new attack is a major escalation against the environment. This draft resolution urges Congress to disband the EPA, slash the environmental protection budget by 75% and instead convene a committee of 300 state agency employees to make recommendations about which environmental standards to eliminate. This radical proposal would undo more than forty years of environmental progress and public health protections that have allowed our economy to thrive while protecting our air and water. Under this scheme, polluters would profit from weak or non-existent enforcement of pollution laws and our air and water would suffer. EPA was created because pollution doesn't stop at state boundaries, and the system of relying exclusively on states was shown to be a failure.

Carbon pollution standards for power plants

EPA proposed the Clean Power Plan in June 2014 to limit carbon pollution from power plants, the largest source of U.S. carbon emissions. At the conference, ALEC aims to finalize two new model policies attacking EPA's Clean Power Plan by creating legislative obstacles for states to comply with the new carbon pollution standards:

- The first model bill aims to create excessive red tape to delay and block a state's plan to reduce carbon pollution by requiring an unnecessary legislative vote of approval before that state's plan can be submitted to EPA. State agencies have been successfully implementing Clean Air Act standards in partnership with EPA for decades, and this bill would upset that balance. Instead of allowing state environmental agency experts to craft the best plan according to the state's needs, ALEC's bill would turn industry-influenced legislators into regulators, interfere with state processes and cause excessive delays. This could mean a less flexible, less efficient, and more costly plan for the state.
- The second model bill attacking EPA's Clean Power Plan forces states to drag their feet on meeting obligations under the Clean Air Act. It would prohibit state agencies from submitting a carbon-reduction plan to EPA until all legal challenges to the plan are resolved. This is a formula for indefinite delay if any lawsuit, no matter how frivolous, can hold up the plan. The courts already have a well-proven mechanism for determining when a legal challenge to a rule or law warrants postponing its implementation.

Ozone Air Quality Standards

ALEC also attacks national health standards for smog pollution. ALEC's model ozone bill mimics proposed federal legislation that would obstruct national health standards for smog, claiming the air is clean enough and it's too expensive to make the air safe. The model resolution would undermine 40 years of Clean Air Act law

and unanimous Supreme Court precedent. In effect it would let polluting industries, not health and medical science, determine air pollution standards across the nation. Years of scientific and medical research have shown us that current standards for smog are out of date, and it's critical that EPA follow the law and update these standards.

Oil Drilling on the Outer Continental Shelf

ALEC calls for the expansion of offshore oil drilling by increasing federal lease sales in the Gulf of Mexico, the Atlantic, and the Alaskan coast. The existing Outer Continental Shelf leasing program already poses grave economic and ecological risks and should be scaled back, not expanded. Drilling in sensitive areas puts at risk America's ocean economy, a sector that provides \$282 billion in economic output. In 2013, coastal shoreline counties in the U.S. contributed \$7 trillion to the Gross Domestic Product. It would be an economic and ecological catastrophe if a spill like Deepwater Horizon, which oiled a thousand miles of coastline, occurred off the Eastern seaboard or in the Arctic. If a major offshore oil spill occurred in the Arctic, no proven technologies exist for cleaning up a blowout in Arctic Ocean waters.

Synthetic fuels and carbon emissions

An ALEC model bill advocates for the elimination of a rule that aims to keep synthetic fuels, like diesel or jet fuel made from coal, from emitting more dangerous carbon pollution than their conventional counterparts. ALEC claims that this provision, known as Section 526, bans certain technology. Not true. The rule simply says that synthetic fuels producers must meet the low-carbon standards that are technically achievable to maintain eligibility for federal procurement awards. In other words, taxpayers should not be funding excess dirty carbon pollution that damages the planet. Congress has repeatedly turned back efforts to repeal Sec. 526.

State Science Advisory Boards

ALEC calls for the creation of a Science Advisory Board (SAB) to provide "consensus" advice on science questions posed by the Governor or state legislators. Establishing state-level SABs is not an inherently bad idea. But this ALEC model bill is actually a blueprint on how to create science boards weighted toward the benefit of polluters, not the public. The legislation lacks a fundamental conflict-of-interest provision that would prohibit individuals from serving if they represent a corporation or a trade association with a financial interest in the Board's decisions. Yet the bill excludes most state employees from the panels, keeping out a major source of non-industry experts. Under the model bill, the Board's interpretations, findings and recommendations are directed to represent the prevailing weight of scientific evidence – a term recently rejected by the National Academy of Sciences (NRC 2014) as lacking clear meaning or scientific value. Such a standard benefits industry, which has voluminous resources to publish many studies -- even if low quality -- to tip the 'weight of evidence' scale in its favor.

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