

The President issued an executive order in an effort to encourage U.S. citizens to use the metric (Celsius) system of temperatures. Section 1 of the executive order requires the U.S. Weather Bureau, a federal executive agency, to state temperatures only in Celsius in all weather reports. Section 2 of the executive order requires all privately owned federally licensed radio and television stations giving weather reports to report temperatures only in Celsius. No federal statute is applicable.

Is the President's executive order constitutional?

- A. Section 1 is constitutional, but section 2 is not.
- B. Section 2 is constitutional, but section 1 is not.
- C. Sections 1 and 2 are constitutional.
- D. Sections 1 and 2 are unconstitutional.

Explanation:

Article II gives the **President**, as the country's **chief executive**, the authority to direct the actions of federal executive agencies (eg, the U.S. Weather Bureau). However, **Congress also has authority** over these agencies under the **nondelegation doctrine**, so the President must **act with congressional approval** or in a manner **consistent with an act of Congress**. And since there is no applicable statute that conflicts with the executive order, section 1 of that order is constitutional **(Choices B & D)**.

Additionally, the President generally has no Article II authority to direct the actions of persons outside of the executive branch (eg, privately owned companies) without congressional approval. There are no circumstances presented in the facts that might justify an exception to this general rule (eg, a sudden attack on the United States). Therefore, section 2 of the executive order is unconstitutional **(Choices B & C)**.

Educational objective:

When the President and Congress share authority over a particular area, the President's Article II powers must be exercised with congressional approval or in a manner that is consistent with an act of Congress.

References

- *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 635–38 (1952) (Jackson, J., concurring) (setting forth the tripartite framework for analyzing the constitutionality of presidential actions).

Copyright © 2014 by the National Conference of Bar Examiners. All rights reserved.

Copyright © UWorld. All rights reserved.

**Assessing the validity of presidential actions
(*Youngstown* framework)**

