



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Clean Air Act: Attorney Generals' (Including Arkansas) Letter to Trump Administration Requesting Clean Power Plan Withdrawal

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Arkansas Attorney General Leslie Rutledge was a signatory to a letter to Vice President-Elect Mike Pence asking that the incoming Administration and Congress withdraw the United States Environmental Protection Agency's ("EPA") Clean Power Plan.

Twenty-three other State Attorney Generals signed the letter.

The final rule opposed by the Arkansas Attorney General was published in the Federal Register at 80 Fed. Reg. 64,662 and entitled "Carbon Pollution Emission Guidelines for Existing Stationary Sources; Electric Utility Generating Units."

The letter was addressed to:

- Vice President-Elect Mike Pence, Chair of the Trump Transition Team
- Senate Majority Leader Mitch McConnell
- Speaker of the House Paul Ryan

Arkansas is among a number of states that filed a lawsuit opposing the Clean Power Plan. Seventeen states and seven municipalities had also intervened in the litigation supporting the Clean Power Plan.

The December 14th letter from the 24 Attorney Generals states in part:

The Clean Power Plan is an unlawful attempt to force States to fundamentally alter electricity generation in their States by shifting from existing fossil-fueled power plants to other methods of generation preferred by EPA. The Rule does so by requiring States to impose emission reduction requirements premised not on pollution control but rather on eliminating operations at fossil-fueled power plants and replacing that lost electricity with generation from newly constructed renewable energy facilities.

The letter outlines three arguments which include:

- The Rule is at odds with section 111 of the Clean Air Act. . .
- The Rule directly intrudes on each State's traditional prerogative over its mix of electricity generation. . .
- The Rule unconstitutionally commandeers the States. . .

The Attorneys General ask that the Administration and Congress work together with the States on four actions to withdraw what they characterize as an “unlawful rule” and prevent adoption of a similar rule in the future. They ask for:

- An Executive Order on day one rescinding President Obama’s Presidential Memorandum directing EPA to issue the Rule and instructing EPA to take no further action to enforce or implement the Rule
- Formal administrative action to withdraw the Rule and related actions in court
- Review of existing litigation
- Longer-term legislative action

[A copy of the December 14th letter can be downloaded here.](#)