



August 31, 2017

---

## **MADIGAN TO U.S. EPA: RETRACT ADMINISTRATOR PRUITT'S ERRONEOUS & INAPPROPRIATE CLEAN POWER PLAN GUIDANCE**

### ***Madigan Joins Coalition Calling Out EPA Administrator Pruitt for Providing Incorrect Legal Advice to Governors & Reneging on His Pledge to Recuse Himself from Clean Power Plan Litigation***

**Chicago** – Attorney General Lisa Madigan joined a coalition of states and cities from around the country to urge the U.S. Environmental Protection Agency's (EPA) retract its "legally incorrect" guidance to states over implementation of the Clean Power Plan to reduce carbon pollution that also flies in the face of EPA Administrator Scott Pruitt's pledge to recuse himself from the Clean Power Plan litigation given his conflicts of interest.

In a letter sent to EPA Acting General Counsel Kevin Minoli, Madigan and the coalition state that, *"until and unless EPA lawfully replaces the Clean Power Plan, it remains the law of the land, despite the current stay of its compliance deadlines. Because the letters are both premature and legally incorrect, and also improper in light of Mr. Pruitt's agreement to recuse himself from litigation over the Clean Power Plan, EPA should retract the letters."*

On March 30, Pruitt sent unsolicited letters to the governors of 47 states asserting that the U.S. Supreme Court's stay of the Clean Power Plan pending the conclusion of litigation provides states and power companies with "day-to-day tolling" of the rule's compliance deadlines.

The attorneys general letter explains that the proper time to decide whether it's necessary to adjust compliance deadlines is at the conclusion of the litigation. If the federal administration's efforts to scuttle the Clean Power Plan fail, the plan and its deadlines will be back in effect.

"The administration cannot simply ignore the Clean Power Plan's critical role in protecting our environment," Madigan said. "The EPA is obligated to limit carbon pollution as directed by the Clean Power Plan. I will continue to fight to ensure the EPA does its job to protect our environment."

Madigan is part of the coalition of states, cities, and counties that intervened in defense of the Clean Power Plan against legal challenges in the D.C. Circuit Court of Appeals. The court heard oral argument in September 2016 and has issued two temporary pauses in litigation, the most recent of which compelled the coalition to weigh in on Pruitt's legal guidance.

The coalition's letter notes that there are two significant problems with Pruitt's legal guidance to governors: There is no legal support for a unilateral extension of regulatory deadlines through a letter from the EPA administrator, and there is no legal basis to automatically extend the Clean Power Plan's compliance deadlines – which are months or even years away – for every day that the litigation remains pending. In fact, EPA found earlier this year that power plants are well on their way to meeting their compliance obligations.

The coalition writes:

*"In addition to being legally erroneous, Mr. Pruitt's opining in the letters on a particular issue concerning the Clean Power Plan litigation is inconsistent with his agreement not to participate in the litigation in light of his representation of Oklahoma in the case. Given his recognition in the May 4, 2017 ethics memorandum that his recusal for one year is appropriate to prevent "any appearance of impropriety," the same underlying concern would apply to the letters, in which he seeks to persuade the Governors of his view of how a stay issued in the course of the litigation should affect parties' future compliance responsibilities."*

Joining Madigan in submitting the letter were the attorneys general from California, Delaware, Iowa, Maine, Maryland, Massachusetts, New Mexico, New York, Oregon, Rhode Island, Virginia, Washington, and the District of Columbia, as well as the cities of Boulder, Colo., Chicago, New York, Philadelphia, South Miami, and leaders from Broward County, Florida.

A copy of the letter can be found [here](#).

-30-

[Return to August 2017 Press Releases](#)

