

EPA

Red states seek to join litigation over Trump climate rule

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Red states are asking to join litigation on the Trump administration's redo of the Clean Power Plan. Public Domain/Wikipedia

This story was updated at 2:10 p.m. EDT.

Red states filed a brief last night supporting the rollback of Obama-era rules that they say "unconstitutionally commandeered the States and their officials."

Those states and their leaders are looking to counter the Democratic jurisdictions that filed a lawsuit against EPA's new Affordable Clean Energy rule.

In their [filing](#), the collection of conservative states, leaders and agencies insisted the Trump administration's ACE rule was "critical" to maintaining the division of powers under the Clean Air Act.

They said EPA's job is to set the groundwork of regulations while states retain "primacy in ground-level regulation and management of electric power generation."

"The Intervening States ... strongly support EPA's return to the principles of cooperative federalism and the rule of law in this critically important area of regulation," said the brief.

Backers include West Virginia, Alabama, Alaska, Arkansas, Georgia, Indiana, Kansas, Kentucky, Louisiana, Missouri, Montana, Nebraska, Ohio, Oklahoma, South Carolina, South Dakota, Texas, Utah and Wyoming.

ACE opponents say the rule, which replaces the Obama administration's Clean Power Plan, lessens the stringency of energy-sector regulations to quell the release of greenhouse gases.

"The CPP impermissibly invaded this traditional state responsibility," the brief said. "Its binding emission limits required States to adopt emissions standards that shifted electricity generation from coal-fired plants to natural gas-fired plants and renewable sources."

There was a substantial pushback against the CPP in courts. And while that litigation is still pending, a slew of new lawsuits against Trump's ACE rule have been filed by health groups, blue states and environmental groups ([Energywire](#), Sept. 9).

The administration has moved to resolve the ACE litigation as soon as possible, theoretically to have the Supreme Court take it up while President Trump is still in office. Blue states and greens say there's no need to rush ([Greenwire](#), Sept. 10).

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