

## Environmental Defense Fund study of Attorney General Scott Pruitt's EPA lawsuits

### 1. Soot and smog pollution that crosses state borders

- Pruitt [sued to challenge implementation](#) of the Cross State Air Pollution Rule – after the U.S. Supreme Court had already upheld the standard.
- This program addresses dangerous soot and smog [pollution that drifts across state lines](#) and causes asthma attacks and premature death. Through this program, downwind states are protected from pollution from out-of-state sources that the states cannot address on their own.
- EPA estimates that every year these protections save up to 34,000 lives and yield up to \$280 billion in benefits – at a cost of under \$1 billion.
- This program has a long, bi-partisan history. An earlier [program was developed under the George W. Bush Administration](#) – which called it the Clean Air Interstate Rule – but the Court of Appeals for the District of Columbia Circuit rejected that rule's approach as insufficiently protective. In issuing a revised standard, EPA was carrying out its duty to address this dangerous pollution.
- Pruitt and his affiliated political action committees have received campaign contributions from the following [co-litigators](#): [Murray Energy](#), [Peabody Energy](#) and [Southern Company](#).
- [co-litigators Murray Energy, National Mining Association](#) and a [Peabody Energy](#) subsidiary have also contributed to the Republican Attorneys General Association, of which Pruitt is past chairman.
- Pruitt [resubmitted to EPA](#), after a one-page cover letter, the comments of a for-profit utility on implementation aspects of this program. In a separate comment letter related to implementation of this program, Pruitt incorporated by reference comments submitted by the American Coalition for Clean Coal Electricity ([see page 1](#)).

### 2. and 3. Safeguards limiting mercury and air toxic pollution

- Pruitt [sued to block a standard](#) that helps protect communities from mercury and toxic air pollution from power plant smokestacks. These basic protections were left intact after this first lawsuit – so Pruitt is [suing a second time](#) to dismantle this safeguard, even though [virtually all](#) power plants nationwide have already achieved the standard.
- This program also has a long, bi-partisan history. Limits on mercury from power plant smokestacks were first developed under the George W. Bush Administration's [Clean Air Mercury Rule](#), but the Court of Appeals for the District of Columbia Circuit rejected its approach as insufficiently protective. In issuing a

revised standard, EPA was following its longstanding duty to address this harmful pollution.

- Mercury is widely known as a dangerous neurotoxin. The [American Academy of Pediatrics notes](#), “The developing fetus and young children” are particularly at risk from mercury exposure because brain maturation “can be disturbed by the presence of mercury.”
- Yet Pruitt [questions the danger of mercury pollution](#) – claiming that “the record does not support EPA’s findings that mercury . . . pose[s] public health hazards.”
- Mercury from coal plant smokestacks contributes to both localized pollution hot spots and contamination farther afield. [Mercury fish contamination](#) is extensive and spans lakes and rivers across all regions of the U.S. Nationwide standards are essential to protect against mercury pollution from coal plant smokestacks, the source of [half of our nation’s mercury emissions](#).
- Pruitt received campaign donations from [co-litigators](#) in the first lawsuit: [Peabody Energy](#) and [Tri-State Generation and Transmission Association](#). Pruitt and his affiliated political action committees have also received campaign contributions from [co-litigators](#) in the second lawsuit: [Murray Energy](#) and [Southern Company](#).
- Similarly, the Republican Attorneys General Association has received contributions from [co-litigators](#) in the first suit: [National Mining Association](#) and a [Peabody Energy](#) subsidiary. The Republican Attorneys General Association has also received contributions from [co-litigators](#) in the second lawsuit: [Murray Energy](#) and a [Southern Company](#) subsidiary.

#### 4. National public health standards for smog pollution

- Pruitt [sued to oppose EPA’s latest update](#) to its national ambient air standard for ground-level ozone (smog) pollution. This litigation is ongoing.
- Ozone at ground level is intensely damaging, worsening asthma and [inducing premature deaths](#). The [American Lung Association calls it “one of the most dangerous”](#) pollutants.
- The latest [American Lung Association report](#) gave all surveyed Oklahoma counties an “F” for ozone problems and found that the number of high ozone days had increased in most counties as [compared with 2010-2012](#).
- Since 1970, health-based national air quality standards have been a foundational aspect of the Clean Air Act – our nation’s historic law protecting against air pollutants that threaten public health. A [2001 unanimous U.S. Supreme Court decision](#) authored by Justice Antonin Scalia affirmed the standards’ health-based approach.
- Pruitt and his affiliated political action committees have received campaign contributions from [co-litigators](#) [Murray Energy](#), [American Fuel & Petrochemical Manufacturers](#) and a subsidiary of the [U.S. Chamber of Commerce](#).

- Pruitt's [co-litigators](#) have also contributed to the Republican Attorneys General Association: [American Petroleum Institute](#), [Murray Energy](#), [U.S. Chamber of Commerce](#), [American Fuel & Petrochemical Manufacturers](#).

## 5. Pollution released during facility startup, shutdown or malfunction

- Pruitt's office [sued EPA over safeguards](#) that protect against unlimited air pollution when polluting facilities start up, shut down or malfunction.
- The [updated policy](#) that Pruitt opposes was issued after the Court of Appeals for the District of Columbia Circuit criticized and barred EPA's previous approach.
- Pruitt has received campaign contributions from [co-litigator Southern Company](#).
- A subsidiary of [co-litigator Southern Company](#) contributed to the Republican Attorneys General Association.

## 6. Protecting scenic vistas in iconic national parks and wildernesses

- Pruitt unsuccessfully sued EPA to block a plan addressing Oklahoma air pollution that causes regional haze pollution in scenic areas. The [10th Circuit Court of Appeals rejected](#) Oklahoma's petition, and the [U.S. Supreme Court rejected](#) Oklahoma's request for an appeal.
- The plan that Pruitt opposed is part of a [longstanding program](#) meant to ensure that air in and around America's national parks and wildernesses is clear. This program began because in our nation's scenic areas, visibility has been [substantially reduced by air pollution](#). Thanks to these bipartisan Clean Air Act protections, we are [making progress](#) in lifting the shroud of haze in our national parks.
- Pruitt furthered this lawsuit together with Oklahoma Gas & Electric, a for-profit utility that [contributed to his campaign](#); notably, Pruitt [filed a new appeal](#) four days after the company's employees, including the CEO, threw a fundraiser for his campaign.

## 7. Clean air standards for oil and gas pollution

- Pruitt [sued to oppose EPA's standards](#) limiting pollution from new, modified and reconstructed oil and gas facilities. This litigation is ongoing.
- These standards [curb emissions](#) of [methane](#), smog-forming volatile organic compounds (VOCs) and, as a co-benefit, reduce toxic air pollutants such as benzene.

- Because many of the standards reduce pollution by leveraging technologies that capture gas rather than wasting it, they also conserve a valuable domestic energy resource.
  - Given these cross-cutting benefits, [strong majorities of Americans support standards](#) to minimize methane emissions from the oil and gas sector.
  - Pruitt and his affiliated political action committees have received campaign donations from [Devon Energy](#) ([member](#) of [co-litigator](#) American Petroleum Institute – API), [ExxonMobil](#) ([member](#) of API) and [Chesapeake Energy](#) ([member](#) of API).
  - [co-litigator American Petroleum Institute](#) has also contributed to the Republican Attorneys General Association.

## 8. Greenhouse gases are a danger to health and the environment

- Pruitt unsuccessfully continued Oklahoma’s legal challenge to EPA’s 2009 science-based finding that greenhouse gases endanger public health and welfare.
  - This finding detailed the extensive scientific research on dangerous impacts from climate change: on [human health](#), on [extreme weather events](#), on [community welfare](#).
  - The Court of Appeals for the District of Columbia Circuit [unanimously rejected](#) this suit and the U.S. Supreme Court declined to review that court’s decision.
  - Pruitt’s campaigns have received contributions from [co-litigators Alpha Natural Resources](#), [Peabody Energy](#) and a subsidiary of the [U.S. Chamber of Commerce](#).
  - [co-litigators American Petroleum Institute](#), [U.S. Chamber of Commerce](#), [National Mining Association](#), [National Association of Home Builders](#), as well as a [Peabody Energy](#) subsidiary, have also contributed to the Republican Attorneys General Association.

## 9. to 12. Clean Power Plan

- The [Clean Power Plan](#) establishes common-sense targets to gradually reduce carbon pollution from existing power plants, our nation’s largest source of this pollution.
  - Pruitt unsuccessfully represented Oklahoma in three separate suits against the [Clean Power Plan](#) before the rule was even published. All these suits were summarily rejected as premature:
    - A [premature lawsuit](#) against the Clean Power Plan proposed rule in the Court of Appeals for the District of Columbia Circuit

- A [subsequent premature lawsuit](#) against the proposed rule filed in Oklahoma federal district court, and then [appealed](#) to the 10th Circuit Court of Appeals
- A [premature lawsuit](#) against the not-yet-published final rule in the D.C. Circuit Court
- Pruitt then [sued against the Clean Power Plan a fourth time](#), in current ongoing litigation.
  - When fully implemented, the Clean Power Plan will prevent an estimated 3,600 premature deaths and 90,000 asthma attacks [every year](#) – while the average American family will save about \$7 on their monthly electric bill.
  - Pruitt and his affiliated political action committees have received campaign contributions from [Murray Energy](#) and [Peabody Energy](#), which have been co-litigators in the first premature D.C. Circuit case, the second premature D.C. Circuit case and the ongoing litigation.
  - [Murray Energy](#) and a [Peabody Energy](#) subsidiary have also contributed to the Republican Attorneys General Association.
  - When Oklahoma filed its case in Oklahoma federal court, it filed alone, with no co-litigators. However, in that instance, David Rivkin, the outside counsel at the private law firm [representing the state](#) in the case – hired by Pruitt – [contributed money](#) to a Pruitt-affiliated political action committee.

### 13. Carbon pollution standards for new power plants

- Pruitt is [suing to block carbon pollution standards](#) for new, modified and reconstructed power plants.
  - These [safeguards](#) would, for the first time, establish a nationwide standard protecting against carbon pollution from new power plants. These [standards](#) are not expected to have notable costs and are not projected to impact electricity prices or reliability.
  - Pruitt and his affiliated political action committees have received contributions from [co-litigators Murray Energy, Southern Company, Peabody Energy, American Coalition for Clean Coal Electricity, and Tri-State Generation and Transmission Association](#).
  - [Co-litigators Murray Energy, American Coalition for Clean Coal Electricity, a Peabody Energy subsidiary and a Southern Company subsidiary](#) have also contributed to the Republican Attorneys General Association.

### 14. Clean Water Rule

- Challenges to the Clean Water Rule are proceeding in many forums. Pruitt has sued, or is suing, EPA in several different federal courts including the [Sixth Circuit Court of Appeals](#).

- The Clean Water Rule [protects streams and wetlands](#) that form the foundation of the nation's water resources. The Clean Water Rule ensures that waters protected under the Clean Water Act are more precisely defined and more predictably determined.

- The [Clean Water Rule responds to requests](#) from members of Congress, developers, farmers, state and local governments, and energy companies to clarify the process of identifying waters protected under the Clean Water Act.

- A Pruitt-affiliated political action committee has received campaign donations from [co-litigator Murray Energy](#).

- Pruitt's [co-litigators](#) in the Sixth Circuit have also contributed to the Republican Attorneys General Association: [National Association of Home Builders](#), [National Mining Association](#), [Murray Energy](#).