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ATTORNEY GENERAL RAOUL FILES LAWSUIT OVER RULE BLOCKING FUTURE REGULATION OF STATIONARY SOURCES OF GREENHOUSE GAS

Lawsuit Filed as U.S. Court of Appeals Rejects Affordable Clean Energy Rule

Chicago — Attorney General Kwame Raoul today, as part of a coalition of states and municipalities, filed a lawsuit against the U.S. Environmental Protection Agency (EPA) over its rule attempting to block future regulation of industries, such as the oil and gas industry, responsible for more than half of all greenhouse gas (GHG) emissions from new stationary sources. The rule, finalized just days before an administration change, creates a new, arbitrary threshold to determine if an industry is a significant source of GHG emissions. If the industry emits less than 3% of total U.S. GHG emissions, the EPA claims it cannot be regulated under section 111 of the Clean Air Act. This would prevent the EPA from regulating any stationary source of greenhouse gases other than existing power plants.

"This administration leaves in the same manner it entered: focused on rolling back as many environmental regulations as possible, and attempting to tie the hands of future administrations who seek to act on climate and protect public health," Raoul said. "The U.S. Court of Appeals for the D.C. Circuit today struck down the Affordable Clean Energy rule, which illegally limited the EPA's authority to combat climate change. I joined this lawsuit for very similar reasons, and I am confident the court will again reach a decision that rejects this administration's misguided approach."

Raoul and the coalition filed the lawsuit as the U.S. Court of Appeals for the D.C. Circuit struck down the EPA's Affordable Clean Energy (ACE) rule, which replaced the Clean Power Plan, the cornerstone of the Obama Administration's attempts to address climate change. The ACE rule would have relaxed greenhouse gas limits on existing coal-fired power plants and required no greenhouse gas reductions before at least 2024. In August 2019, Attorney General Raoul and a coalition of states and cities filed a lawsuit against the EPA, arguing that the ACE rule illegally limited the EPA's authority to address greenhouse gas pollution from power plants. Today, the court vacated the rule, finding that it "rested critically on a mistaken reading of the Clean Air Act."

On Dec. 20, 2018, the EPA put forward a proposal to weaken standards regulating GHG emissions from new coal-fired power plants. The Attorney General's office previously submitted a comment letter objecting to the proposal. Last week, the EPA surprised the public by unveiling a final rule that departed dramatically from its original proposal. In promulgating the final rule, which does not contain any emission standards, the EPA failed to provide public notice that it would be replacing its past legal rationale for determining which sources "contribute significantly" to GHG pollution with an arbitrary 3% cutoff.

The EPA rushed out this new arbitrary test without first providing the public with notice and an opportunity to comment, which makes it illegal under the Clean Air Act and basic administrative rulemaking procedures. This effort to prevent the regulation of GHG emissions from any sources besides power plants is little more than a transparent attempt to tie the hands of future administrations.

Joining Raoul in filing the lawsuit are the attorneys general of California, Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington and Wisconsin; as well as the cities of Boulder, Colo., Chicago, Los Angeles, New York City, and South Miami, Fla.; and Broward County, Fla.

