

August 13, 2019

ATTORNEY GENERAL RAOUL FILES LAWSUIT AGAINST EPA AFFORDABLE CLEAN ENERGY RULE

Chicago — Attorney General Kwame Raoul, as part of a coalition of 28 states and cities, today [announced a lawsuit](#) against the U.S. Environmental Protection Agency (EPA) over its Affordable Clean Energy (ACE) rule. The ACE rule replaced the Clean Power Plan, the first-ever nationwide limit on existing fossil-fueled power plants.

“The people of Illinois and around the country cannot afford the impact of unchecked climate change,” Raoul said. “The EPA’s Affordable Clean Energy rule is a huge step backward in the effort to address the devastating effects of climate change. It is a misguided policy that ignores the science of climate change and will prolong the nation’s reliance on polluting, expensive coal power plants, and will reverse progress toward clean, renewable, affordable energy.”

The ACE rule barely mentions climate change or recognizes the threat it poses to the public’s health, the economy, or the environment. Additionally, the rule disregards requirements of the federal Clean Air Act. The Clean Air Act requires that limits on air pollutants, such as greenhouse gases, must be based on the emissions reductions achievable through the “best system of emission reduction.” In the ACE rule, the EPA has eliminated shifting from coal-fueled energy generation to less carbon-intensive generation as a “best system.”

The “best system of emission reduction” used by the EPA in the ACE rule – equipment upgrades at coal power plants – will reduce emissions by only 0.7 percent more by 2030 than having no rule, according to EPA’s own analysis. Further, the EPA found that emissions of one or more of three pollutants – carbon dioxide (CO₂), nitrogen oxides (NO_x), and sulfur dioxide (SO₂) – will increase in 18 states in 2030 compared to having no rule.

The International Energy Agency estimates that climate change pollution from the U.S. power sector must be reduced by 74 percent by 2030 for the U.S. to be able to achieve the goal of limiting worldwide temperature increase to less than 2 degrees Celsius. By the EPA’s own estimates, the ACE rule falls short of hitting this target with a projected reduction of only 35 percent.

Already, climate change is harming the well-being of Illinois’ residents, natural resources, and economy. Residents and communities throughout Illinois are continuing to recover from spring storms and record flood levels that impacted 36 counties. Violent tornadoes, extreme cold and heat, and destructive flooding have all become more frequent and life-threatening. These changes have also prevented farmers from planting crops on time, reduced crop yield, and harmed crop quality. Earlier this month, the U.S. Department of Agriculture declared an agriculture disaster in all 102 Illinois counties. By failing to adequately limit climate-change-causing carbon dioxide pollution from power plants, the ACE rule does nothing to mitigate these harms.

The Illinois Attorney General’s office has worked since 2003 to limit carbon pollution from fossil-fueled power plants. Most recently, the Attorney General’s office joined a coalition of states, counties, and cities in filing comments in opposition to the EPA’s proposed repeal of the Clean Power Plan, and filed comments in opposition to the ACE rule as proposed.

Joining Raoul in the lawsuit are the attorneys general of California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington, and

Wisconsin. In addition, Boulder, Chicago, Los Angeles, New York City, Philadelphia, and South Miami joined the lawsuit.

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

State of New York, State of California, State of Colorado, State of Connecticut, State of Delaware, State of Hawaii, State of Illinois, State of Maine, State of Maryland, Commonwealth of Massachusetts, People of the State of Michigan, State of Minnesota, State of New Jersey, State of New Mexico, State of North Carolina, State of Oregon, Commonwealth of Pennsylvania, State of Rhode Island, State of Vermont, Commonwealth of Virginia, State of Washington, State of Wisconsin, District of Columbia, City of Boulder (CO), City of Chicago, City of Los Angeles, City of New York, City of Philadelphia, and the City of South Miami (FL),

Petitioners,

v.

Environmental Protection Agency,

Respondent.

Case No. 19-_____

PETITION FOR REVIEW

Pursuant to Federal Rule of Appellate Procedure 15(a), Circuit Rule 15, and section 307(b)(1) of the Clean Air Act, 42 U.S.C.

§ 7607(b)(1), New York, California (by and through Governor Gavin Newsom, the California Air Resources Board, and Attorney General

Xavier Becerra), Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington, Wisconsin, District of Columbia, Boulder (CO), Chicago, Los Angeles, New York City, Philadelphia, and South Miami (FL) (“State and Municipal Petitioners”) petition this Court to review the Environmental Protection Agency’s final agency action entitled “Repeal of the Clean Power Plan; Emission Guidelines for Greenhouse Gas Emissions from Existing Electric Utility Generating Units; Revisions to Emission Guidelines Implementing Regulations,” published at 84 Fed. Reg. 32,520 (July 8, 2019). A copy of the rule is attached hereto as *Attachment A*. State and Municipal Petitioners seek a determination by the Court pursuant to section 307(d)(9) of the Clean Air Act, 42 U.S.C. § 7607(d)(9), that the rule is unlawful and must be vacated.

Dated: August 13, 2019

Respectfully submitted,

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I hereby certify that pursuant to Circuit Rule 15(a), a copy of the foregoing Petition for Review was served on August 13, 2019 by first class mail, postage prepaid on the following:

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