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Hawaii Attorney General Joins Lawsuit Against Dirty Power Rule

HONOLULU – Attorney General Clare E. Connors today joined a coalition of 22 states and 7 local governments, in announcing a lawsuit against the Trump Administration’s Environmental Protection Agency (EPA) over its “ACE” – aka “Dirty Power” – rule. The ACE rule replaced the Clean Power Plan, the first-ever nationwide limits on one of the largest sources of climate change pollution: existing fossil-fueled power plants. The EPA’s rule rolls-back these limits and will have virtually no impact on these emissions, prolonging the nation’s reliance on polluting, expensive coal power plants and obstructing progress of states toward clean, renewable, and affordable electricity generation.

“The ACE rule conflicts with the Clean Air Act,” said Attorney General Connors. “Ignoring the direct impacts of climate change in this manner may cause irreversible, adverse effects on our state.”

Besides ignoring the science of climate change – the text of the entire ACE rule barely mentions climate change, much less recognizes the dire threat it poses to people’s health, the economy, or the environment – 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.” However, in the “Dirty Power” rule, EPA has ruled out as such a “best system” the most cost-effective, proven, and successful approach to controlling greenhouse gas emissions: shifting from coal-fueled generation to less carbon-intensive generation.

Unlike the Clean Power Plan, which was modeled after successful state programs that require cleaner energy generation, the ACE rule turns a blind eye to these programs. For example, the 10-state (New York, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island, and Vermont) Regional Greenhouse Gas Initiative (RGGI), a market-based cap-and-trade program, has proven to be an effective, cost-efficient model for reducing power plant emissions of climate change pollution. Power plants in the participating RGGI states have cut their emissions by more than 50 percent, and between 2015 and 2017, these states saw

\$1.4 billion of net positive economic activity and the creation of 14,500 new jobs – all while maintaining reliability of service and holding the line on electricity rates.

In fact, the “Dirty Power” rule goes so far as to prohibit states from participating in cap-and-trade programs means of complying with the requirements of the Clean Air Act.

Significantly, the “best system of emission reduction” used by the Trump EPA in the “Dirty Power” rule – equipment upgrades at coal power plants – will reduce emissions by only 0.7 percent more by 2030 than having no rule at all, according to EPA’s own analysis. Further, 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 no “Dirty Power” rule.

The implications of the “Dirty Power” rule’s failure to achieve virtually any reductions in power plant emissions are serious. The International Energy Agency estimates that climate change pollution from the U.S. power sector must be reduced by 74 percent by 2030 below 2005 levels 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 “Dirty Power” rule falls woefully short of hitting this target with a projected reduction of only 35 percent from 2005 levels. Of that, only roughly one percent is attributable to the impact of the “Dirty Power” rule and 34 percent attributable to market factors.

Today’s suit was filed in the US Court of Appeals for the District of Columbia Circuit. In addition to Attorney General Connors, the suit, led by New York Attorney General Letitia James, is joined by the Attorneys General of California, Colorado, Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington, Wisconsin, and the District of Columbia, and the chief legal officers of Boulder, Chicago, Los Angeles, New York City, Philadelphia, and South Miami.

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