

**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,

FOR THE STATE OF NEW YORK

LETITIA JAMES  
Attorney General

By: /s/ Michael J. Myers

---

Michael J. Myers  
Senior Counsel  
Morgan A. Costello  
Chief, Affirmative Litigation  
Andrew G. Frank  
Brian M. Lusignan  
Gavin G. McCabe  
Assistant Attorneys General  
Environmental Protection Bureau  
The Capitol  
Albany, NY 12224  
(518) 776-2382  
[Michael.Myers@ag.ny.gov](mailto:Michael.Myers@ag.ny.gov)

FOR THE STATE OF  
CALIFORNIA

XAVIER BECERRA  
Attorney General

/s/ David A. Zonana

Robert W. Byrne  
Sally Magnani  
Senior Assistant Attorneys  
General  
David A. Zonana  
Supervising Deputy Attorney  
General  
Jonathan A. Wiener  
M. Elaine Meckenstock  
Timothy E. Sullivan  
Elizabeth B. Rumsey  
Theodore A.B. McCombs  
Deputy Attorneys General  
1515 Clay Street  
Oakland, CA 94612  
(510) 879-1300

Attorneys for the State of  
California, by and through  
Governor Gavin Newsom, the  
California Air Resources Board,  
and Attorney General Xavier  
Becerra

FOR THE STATE OF  
COLORADO

PHILIP J. WEISER  
Attorney General

/s/ Eric R. Olson

Eric R. Olson  
Solicitor General  
1300 Broadway, 10th Floor  
Denver, CO 80203  
(720) 508-6548

FOR THE STATE OF  
CONNECTICUT

WILLIAM TONG  
Attorney General

/s/ Matthew I. Levine

Matthew I. Levine  
Scott N. Koschwitz  
Assistant Attorneys General  
Office of the Attorney General  
P.O. Box 120, 55 Elm Street  
Hartford, CT 06141-0120  
(860) 808-5250

FOR THE STATE OF HAWAII

CLARE E. CONNORS  
Attorney General

/s/ William F. Cooper

William F. Cooper  
Deputy Attorney General  
465 S. King Street, Room 200  
Honolulu, HI 96813  
(808) 586-4070

FOR THE STATE OF  
DELAWARE

KATHLEEN JENNINGS  
Attorney General

/s/ Valerie S. Edge

Valerie S. Edge  
Deputy Attorney General  
Delaware Department of Justice  
102 West Water Street, 3d Floor  
Dover, DE 19904  
(302) 739-4636

FOR THE STATE OF ILLINOIS

KWAME RAOUL  
Attorney General

/s/ Daniel I. Rottenberg

Matthew J. Dunn  
Daniel I. Rottenberg  
Assistant Attorneys General  
Office of the Attorney General  
69 W. Washington St., 18th Floor  
Chicago, IL 60602  
(312) 814-3816

FOR THE STATE OF MAINE

AARON M. FREY  
Attorney General

/s/ Laura E. Jensen

Laura E. Jensen  
Assistant Attorney General  
6 State House Station  
Augusta, ME 04333  
(207) 626-8868

FOR THE STATE OF  
MARYLAND

BRIAN E. FROSH  
Attorney General

/s/ Joshua M. Segal

John B. Howard, Jr.  
Joshua M. Segal  
Steven J. Goldstein  
Special Assistant Attorneys  
General  
200 St. Paul Place  
Baltimore, MD 21202  
(410) 576-6300

Roberta R. James  
Deputy General Counsel  
Office of the Attorney  
General  
Maryland Department of  
the Environment  
1800 Washington Blvd.  
Baltimore, MD 21230  
(410) 537-3748

FOR THE COMMONWEALTH OF  
MASSACHUSETTS

MAURA HEALEY  
Attorney General

/s/ Melissa A. Hoffer

Melissa A. Hoffer  
Christophe Courchesne  
Assistant Attorneys General  
Megan M. Herzog  
Special Assistant Attorney  
General  
Environmental Protection Division  
One Ashburton Place, 18<sup>th</sup> Floor  
Boston, MA 02108  
(617) 963-2423

FOR THE STATE OF  
MINNESOTA

KEITH ELLISON  
Attorney General

/s/ Peter N. Surdo

Peter N. Surdo  
Special Assistant Attorney  
General  
445 Minnesota Street, Suite 900  
St. Paul, MN 55101-2127  
(651) 757-1244

FOR THE PEOPLE OF THE  
STATE OF MICHIGAN

DANA NESSEL  
Attorney General

/s/ Zachary C. Larsen

Zachary C. Larsen  
Gillian E. Wener  
Assistant Attorneys General  
Environment, Natural Resources,  
and Agriculture Division  
P.O. Box 30755  
Lansing, MI 48909  
(517) 335-7664

FOR THE STATE OF NORTH  
CAROLINA

JOSHUA H. STEIN  
Attorney General

/s/ Dan Hirschman

Dan Hirschman  
Senior Deputy Attorney General  
Taylor Crabtree  
Asher Spiller  
Assistant Attorneys General  
North Carolina Department of  
Justice  
P.O. Box 629  
Raleigh, NC 27602  
(919) 716-6400

FOR THE STATE OF NEW  
JERSEY

GURBIR S. GREWAL  
Attorney General

/s/ Lisa J. Morelli

Lisa J. Morelli  
Deputy Attorney General  
Division of Law  
R.J. Hughes Justice Complex  
25 Market Street, P.O. Box 093  
Trenton, NJ 08625  
(609) 376-2708

FOR THE STATE OF NEW  
MEXICO

HECTOR H. BALDERAS  
Attorney General

/s/ Anne Minard

Anne Minard  
Special Assistant Attorney  
General  
Consumer & Environmental  
Protection Division  
408 Galisteo Street  
Santa Fe, NM 87501  
(505) 490-4045

FOR THE STATE OF OREGON

ELLEN F. ROSENBLUM  
Attorney General

/s/ Paul Garrahan

Paul Garrahan  
Attorney-in-Charge  
Steve Novick  
Special Assistant Attorney  
General  
Natural Resources Section  
Oregon Department of Justice  
1162 Court Street NE  
Salem, OR 97301-4096  
(503) 947-4593

FOR THE COMMONWEALTH  
OF PENNSYLVANIA

JOSH SHAPIRO  
Attorney General

/s/ Ann R. Johnston

Ann R. Johnston  
Senior Deputy Attorney General  
Public Protection Division, Health  
Care Section  
Aimee D. Thomson  
Deputy Attorney General  
Impact Litigation Section  
Pennsylvania Office of Attorney  
General  
1600 Arch St., Suite 300  
Philadelphia, PA 19103  
(267) 940-6696



FOR THE STATE OF RHODE ISLAND

PETER F. NERONHA  
Attorney General

/s/ Gregory S. Schultz  
Gregory S. Schultz  
Special Assistant Attorney  
General  
Office of the Attorney General  
150 South Main Street  
Providence, RI 02903  
(401) 274-4400

FOR THE COMMONWEALTH OF VIRGINIA

MARK HERRING  
Attorney General

/s/ Donald D. Anderson  
Donald D. Anderson  
Deputy Attorney General  
Paul Kugelman, Jr.  
Sr. Asst. Attorney General and  
Section Chief, Environmental  
Caitlin Colleen Graham O'Dwyer  
Assistant Attorney General  
202 North 9<sup>th</sup> Street  
Richmond, VA 23219  
(804) 371-8329

FOR THE STATE OF VERMONT

THOMAS J. DONOVAN, JR.  
Attorney General

/s/ Nicholas F. Persampieri  
Nicholas F. Persampieri  
Assistant Attorney General  
Office of the Attorney General  
109 State Street  
Montpelier, VT 05609-1001  
(802) 828-3186

FOR THE STATE OF WASHINGTON

ROBERT W. FERGUSON  
Attorney General

/s/ Christopher H. Reitz  
Christopher H. Reitz  
Emily C. Nelson  
Assistant Attorneys General  
Office of the Attorney General  
P.O. Box 40117  
Olympia, WA 98504-0117  
(360) 586-4614

FOR THE STATE OF  
WISCONSIN

JOSHUA L. KAUL  
Attorney General

/s/ Gabe Johnson-Karp  
Gabe Johnson-Karp  
Assistant Attorney General  
Wisconsin Department of Justice  
Post Office Box 7857  
Madison, WI 53707-7857  
(608) 267-8904

FOR THE CITY OF  
BOULDER

TOM CARR  
City Attorney

/s/ Debra S. Kalish  
Debra S. Kalish  
City Attorney's Office  
1777 Broadway, Second Floor  
Boulder, CO 80302  
(303) 441-3020

FOR THE DISTRICT OF  
COLUMBIA

KARL A. RACINE  
Attorney General

/s/ Loren L. AliKhan  
Loren L. AliKhan  
Solicitor General  
Office of the Attorney General  
441 Fourth St, NW, S. 630 South  
Washington, DC 20001  
(202) 727-6287

FOR THE CITY OF  
CHICAGO

MARK A. FLESSNER  
Corporation Counsel

/s/ Benna Ruth Solomon  
Benna Ruth Solomon  
Deputy Corporation Counsel  
30 N. LaSalle Street, S. 800  
Chicago, IL 60602  
(312) 744-7764

FOR THE CITY OF LOS ANGELES

MICHAEL N. FEUER  
City Attorney

/s/ Michael J. Bostrom  
Michael J. Bostrom  
Assistant City Attorney  
Los Angeles City Attorney's Office  
200 N. Spring Street, 14th Floor  
Los Angeles, CA 90012  
(213) 978-1882

FOR THE CITY OF PHILADELPHIA

MARCEL S. PRATT  
City Solicitor

/s/ Scott J. Schwarz  
Scott J. Schwarz  
Patrick K. O'Neill  
Divisional Deputy City Solicitors  
The City of Philadelphia  
Law Department  
One Parkway Building  
1515 Arch Street, 16<sup>th</sup> Floor  
Philadelphia, PA 19102-1595  
(215) 685-6135

FOR THE CITY OF NEW YORK

ZACHARY W. CARTER  
Corporation Counsel

/s/ Christopher G. King  
Christopher G. King  
Kathleen C. Schmid  
Senior Counsel  
New York City Law Department  
100 Church Street  
New York, NY 10007  
(212) 356-2314

FOR THE CITY OF SOUTH MIAMI

/s/ Thomas F. Pepe  
Thomas F. Pepe  
City Attorney  
City of South Miami  
1450 Madruga Avenue, S.  
202  
Coral Gables, FL 33146  
(305) 667-2564

## CERTIFICATE OF SERVICE

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:

Andrew Wheeler, Administrator  
Office of the Administrator (1101A)  
Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

Correspondence Control Unit  
Office of General Counsel (2311)  
Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

William Barr  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Ave., NW  
Washington, DC 20530

*/s/ Michael J. Myers*

---

MICHAEL J. MYERS