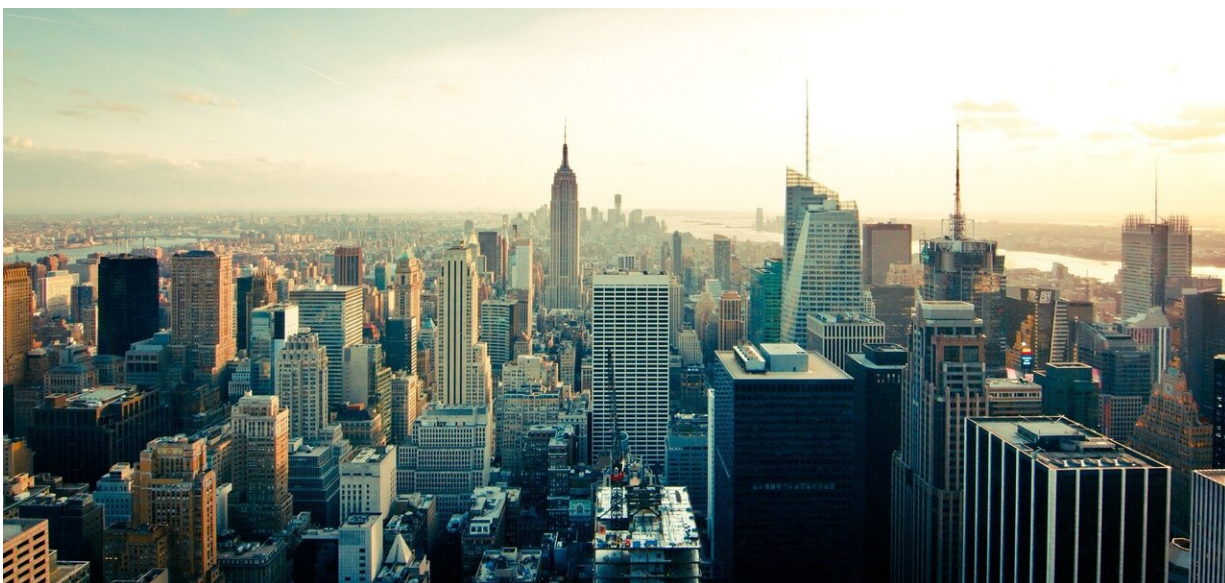


9 states sue EPA for 'blanket waiver' as nation fights pandemic

May 21 2020, by Jennifer Bjorhus



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Nine states have sued the U.S. Environmental Protection Agency for curtailing enforcement of rules on air and water pollution during the COVID-19 pandemic, saying the pullback puts the public at even greater risk.

The states accuse the federal regulator of overstepping its authority when it created a "blanket waiver" in March that they say "gives regulated parties free rein to self-determine when compliance with federal

environmental laws is not practical because of COVID-19."

That could tempt companies to stop reporting chemical spills or refrain from tracking emissions of hazardous air pollutants, such as [sulfur dioxide](#) or benzene, the states say in their complaint.

The lawsuit, filed in [federal court](#) in New York City last week, asks the court to vacate the policy. It was filed by the nine Democratic state attorneys general from New York, California, Illinois, Maryland, Michigan, Minnesota, Oregon, Vermont and Virginia.

Defendants include the EPA, Administrator Andrew Wheeler and Assistant Administrator Susan Parker Bodine.

Minnesota Attorney General Keith Ellison said Monday that the policy "puts Minnesota's most vulnerable communities even more at risk and denies them information about potential pollution that we know exacerbates symptoms of COVID-19."

The EPA announced its temporary enforcement discretion policy March 26, three days after the American Petroleum Institute, a major oil and gas industry association, wrote the EPA asking it to "temporarily waiv(e) nonessential compliance obligations" during the pandemic, the lawsuit notes.

The EPA move stunned environmental groups. A coalition led by the Natural Resources Defense Council sued the EPA, also in U.S. District Court for the Southern District of New York.

An EPA spokesperson said they can't comment on specific litigation, but said the agency has responded to the concerns of the state attorneys general.

"The EPA temporary policy is a lawful and proper exercise of the agency's authority under extraordinary circumstances," the spokesperson said. "As we've stated previously, contrary to reporting, EPA's enforcement authority and responsibility remains active and the temporary guidance does not allow any increase in emissions. This is not a nationwide waiver of environmental rules."

The Trump administration has been steadily undoing environmental regulations for years, rolling back more than 60 such rules, according to a New York Times tracker, with more in the works.

In an interview, Alexandra Klass, who teaches environmental law at the University of Minnesota Law School, said that many of the rollbacks underwent a rule-making process with public notices and comments. The EPA's curtailment in March did not. "It just seemed to come out of nowhere," Klass said.

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