

For Immediate Release

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**SUPREME COURT AMICUS BRIEF FILED IN SUPPORT OF EPA
IN GREENHOUSE GAS PSD PERMITTING CASE**
Industry groups wrong to challenge the meaning of “any air pollutant.”

New York—Congress gave EPA clear instructions in the Clean Air Act: regulate “any air pollutant.” But the obvious definition of that phrase has been challenged in a Supreme Court case—industry groups now argue that “any air pollutant” means only certain air pollutants.

Today the Institute for Policy Integrity at New York University School of Law filed an amicus brief with the Supreme Court in the case against the Environmental Protection Agency’s regulation of greenhouse gases under its prevention of significant deterioration ([PSD](#)) program. The brief provides legal justification for EPA’s application of PSD permitting to all regulated pollutants, including greenhouse gases.

“Industry groups want to warp the meaning of this phrase,” said Richard Revesz, Policy Integrity’s director and dean emeritus of NYU Law. “But “any air pollutant” means just that and there is no reason for the Supreme Court to change it.”

Large, stationary sources of air pollutants, such as electric power plants, factories, and oil refineries must apply for PSD permits when building a new plant or modifying an existing one. For over thirty years—through rulemakings under five different presidential administrations of both political parties—EPA has consistently interpreted the law to apply its rules to all pollutants regulated under the Clean Air Act. Since 1980, over the repeated objections of industry groups, EPA has found that the Clean Air Act requires a comprehensive interpretation of the scope of the PSD program.

In addition, Policy Integrity’s brief explains that the industry groups’ interpretations of the PSD requirements would throw other Clean Air Act programs out of whack, increasing pollution levels from older, dirtier sources. Because the PSD program works in concert with other provisions of the Clean Air Act to balance the regulation of existing sources and the regulation of new or modified sources industry’s requested changes would upset the law’s structure.

The brief also notes that several absurdities would result from the Supreme Court ruling in favor of industry groups in this case. For example, the ruling would penalize sources that already complied with existing regulations.

The PSD issue was selected by the justices from a much broader challenge filed by industry groups. In focusing on PSD, the Supreme Court affirmed the EPA’s authority and obligation to proceed with its program for controlling greenhouse gases under the Clean Air Act.

The Institute for Policy Integrity at New York University School of Law is a non-partisan think-tank using economics and law to protect the environment, public health, and consumers.

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To read the brief, [click here](#).

Environmental law experts including Policy Integrity's director and NYU Law dean emeritus, Richard Revesz, are available for interviews.