



Institute for
Policy Integrity
NEW YORK UNIVERSITY SCHOOL OF LAW

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STATEMENT ON CROSS-STATE AIR POLLUTION COURT RULING

Today, the United States Court of Appeals for the D.C. Circuit ruled that EPA acted unlawfully in 2018 when it rejected a petition from Maryland asking it to set tighter pollution limits on coal-fired power plants in upwind states. This was a unanimous decision from a three-judge panel with two Republican appointees (including a Trump appointee).

Among other arguments, the court rejected EPA's contention that further pollution reductions in the upwind states would not be "cost effective." The Institute for Policy Integrity at New York University School of Law filed an [amicus brief](#) focused on this issue.

Richard Revesz, Lawrence King Professor of Law and Dean Emeritus at NYU School of Law and director of the Institute for Policy Integrity, has released the following statement:

"There is no question that EPA has a legal obligation to prevent upwind states from significantly contributing to unsafe air conditions in downwind jurisdictions. The agency can certainly seek out the cheapest way of fulfilling this responsibility, but it can't cite cost as a reason to ignore the law altogether. That's not cost-effectiveness analysis. That's dereliction of duty."

Jack Lienke, Regulatory Policy Director at the Institute for Policy Integrity, has released the following statement:

"Maryland has already imposed tight emission limits on its own power plants. But the vast majority of smog-forming pollution within its borders originates in neighboring states with laxer regulations. These exported emissions seriously endanger the respiratory health of Marylanders, and both the Clean Air Act and basic fairness demand that EPA address the problem."

Related Resources:

- A [Washington Post op-ed by Lienke and Revesz](#) on this issue
- The Institute for Policy Integrity's [amicus brief for this case](#)

Richard Revesz and Jack Lienke are available for interviews on this matter.

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[The Institute for Policy Integrity](#) at New York University School of Law is a non-partisan think tank dedicated to improving the quality of government decisionmaking. The institute produces original scholarly research in the fields of economics, law, and regulatory policy; and advocates for reform before courts, legislatures, and executive agencies.