

Reposted from the House Select Committee on the Climate Crisis: 190+ CONGRESSIONAL DEMOCRATS FILE AMICUS BRIEF DEFENDING EPA'S CLEAN AIR ACT AUTHORITY

Jan 25, 2021

Press Release

163 Members and 29 Senators Join Push Led By Chairs Castor, Pallone & Carper

WASHINGTON - On Tuesday, more than 190 congressional Democrats submitted an amicus brief to the Supreme Court in the case of *West Virginia v. Environmental Protection Agency (EPA)* in support of the EPA's authority to tackle the climate crisis, protect the public from dangerous air pollution, and reduce greenhouse gas emissions.

Led by Chair **Kathy Castor** of the **House Select Committee on the Climate Crisis**, Chair **Frank Pallone, Jr.** of the **House Committee on Energy and Commerce**, and Chairman **Tom Carper** of the **Senate Committee on Environment and Public Works**, the amicus brief supports the EPA's authority under the Clean Air Act, recognizing its obligation and authority to regulate greenhouse gas emissions. It also rejects spurious arguments made by congressional Republicans in their own amicus brief, in which they wrongly challenge the EPA's authority to address climate pollution.

“Once again, Democrats are standing up for the right of every American to breathe clean air, while Republicans shamelessly side with polluter profits over the health of our families,” said Chair Castor. **“For half a century, the Environmental Protection Agency has used its authority to address air pollution, including carbon dioxide pollution, in order to safeguard public health under both Democratic and Republican administrations. The Supreme Court has repeatedly recognized this authority under the Clean Air Act, but now polluters and Republicans are throwing it into question with phony, cynical arguments. Polluters are trying to make an end run around Congress and long-established law. If they succeed, they will shift huge costs onto consumers, harm our health, and make it harder for our children to inherit a livable planet.”**

“This is one of the most consequential environmental cases of our lifetime. After countless failed attempts to legislatively undermine the Clean Air Act in

Congress, Republicans are now turning to the Supreme Court to seek what is fundamentally a political and legislative end. The Court must not reward this behavior and ignore the clear, intentional separation of powers outlined in our Constitution,” said Chair Pallone. **“The Clean Air Act is emphatically clear that EPA has both the authority and obligation to regulate dangerous air pollution like greenhouse gases and protect public health. Anyone arguing to the contrary is peddling fabrications that dismiss both the text and the history of the law. I’m proud to stand with my colleagues in fighting to uphold the law, the will of Congress, and Americans’ right to clean air.”**

“Congress drafted the Clean Air Act to stand the test of time. This sweeping law allows EPA to use the latest available science to curb harmful climate pollution and the threat it poses to our health and economy,” said Carper, Chairman of the U.S. Senate Committee on Environment and Public Works. **“Most Americans agree that we must do more—not less—to clean up the air we breathe and address the climate crisis. That is why nearly 200 Democrats in Congress are unified in urging the Supreme Court to affirm the authority that the Clean Air Act has afforded the EPA for more than 50 years.”**

The amicus brief was signed by 192 congressional Democrats - 163 in the House and 29 in the Senate. The signatories are represented by Pollock Cohen LLP; a full list is included at the end of this release.

The brief makes the argument that:

- By enacting the Clean Air Act (CAA), Congress gave the EPA broad authority to regulate air pollution like carbon dioxide (CO₂). Section 111(d) of the CAA serves as a gap-filling provision to give the EPA flexibility to address pollution problems that developed since the CAA was passed over 50 years ago.

- Congress has taken an all-hands-on-deck approach to a problem as complex as climate change. The Republican arguments that new bills that seek to address the climate crisis somehow limit the authority of the EPA or repeal its existing authority do not hold water.

- Congress explicitly affirmed the EPA’s authority to regulate greenhouse gases (GHGs) like CO₂ with a bipartisan vote on the resolution last year to re-impose an Obama-era rule supporting the EPA’s regulation of methane emissions.

- Republicans have failed to curtail the EPA’s authority through Congress. They are now asking the court to do what they haven’t been able to do legislatively.

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Congress is creating as many avenues as possible to deal with the climate crisis. The Court should tread carefully in curtailing any specific tool, including the CAA.

On the House side, signers include: Chair Castor, Chair Pallone, Speaker Pelosi, Leader Hoyer, Whip Clyburn, Assistant Speaker Clark, Democratic Caucus Chairman Jeffries, and Reps. Adams, Aguilar, Allred, Auchincloss, Barragán, Bass, Beatty, Beyer, Blumenauer, Blunt Rochester, Bonamici, Bourdeaux, Bowman, Anthony Brown, Shontel Brown, Brownley, Bush, Butterfield, Carbajal, Cárdenas, Carson, Troy Carter, Cartwright, Casten, Castro, Cicilline, Clarke, Cleaver, Cohen, Connolly, Costa, Courtney, Crist, Crow, Danny Davis, Dean, DeFazio, DeGette, DelBene, DeSaulnier, Deutch, Dingell, Doggett, Doyle, Evans, Escobar, Eshoo, Espaillat, Foster, Frankel, Gallego, Garamendi, Chuy García, Gomez, Grijalva, Hayes, Huffman, Jackson Lee, Jacobs, Jayapal, Eddie Bernice Johnson, Hank Johnson, Jones, Kahele, Kaptur, Keating, Kildee, Kilmer, Kim, Krishnamoorthi, Kuster, Langevin, Larson, Lawrence, Barbara Lee, Leger Fernández, Andy Levin, Mike Levin, Lieu, Lowenthal, Lynch, Malinowski, Carolyn Maloney, Sean Patrick Maloney, Manning, Matsui, McBath, McCollum, McEachin, McGovern, McNerney, Meeks, Meng, Mfume, Moore, Moulton, Nadler, Neguse, Newman, Norton, Ocasio-Cortez, O'Halleran, Panetta, Pascrell, Payne, Perlmutter, Peters, Pingree, Pocan, Porter, Pressley, Price, Quigley, Raskin, Rice, Ross, Rush, San Nicolas, Sánchez, Sarbanes, Scanlon, Schakowsky, Schrader, Schrier, David Scott, Bobby Scott, Schiff, Schneider, Sewell, Sherrill, Sires, Soto, Adam Smith, Speier, Stevens, Strickland, Suozzi, Takano, Mike Thompson, Titus, Tlaib, Tonko, Norma Torres, Ritchie Torres, Trahan, Trone, Veasey, Velázquez, Wasserman Schultz, Waters, Watson Coleman, Welch, Wild, Williams, Wilson, and Yarmuth.

On the Senate side, signers include: Senator Thomas R. Carper of Delaware, Chairman, U.S. Senate Committee on Environment and Public Works; Senate Majority Leader Charles E. Schumer of New York; Senator Edward J. Markey of Massachusetts, Chairman, U.S. Senate Subcommittee on Clean Air, Climate, and Nuclear Safety; Senator Angus S. King, Jr. of Maine; Senator Cory A. Booker of New Jersey; Senator Christopher A. Coons of Delaware; Senator Benjamin L. Cardin of Maryland; Senator Tina Smith of Minnesota; Senator Tammy Duckworth of Illinois; Senator Tammy Baldwin of Wisconsin; Senator Richard J. Durbin of Illinois; Senator Jeanne Shaheen of New Hampshire; Senator Dianne Feinstein of California; Senator Alex Padilla of California; Senator Martin Heinrich of New Mexico; Senator Mazie Hirono of Hawaii; Senator Robert P. Casey, Jr. of Pennsylvania; Senator Jeff Merkley of Oregon; Senator Ron Wyden of Oregon; Senator Michael F. Bennet of Colorado; Senator Brian Schatz of Hawaii; Senator Chris Van Hollen of Maryland; Senator Amy Klobuchar of Minnesota; Senator Robert Menendez of New Jersey; Senator Kirsten E. Gillibrand of New York; Senator Debbie Stabenow of Michigan; Senator Sherrod Brown of Ohio; Senator Ben Ray Luján of New Mexico; and Senator Patrick J. Leahy of Vermont.

Please find the full brief and link to the full press release from the House Committee on Energy & Commerce below. Find the pdf of this brief to the right.

Contact:

Max Rodriguez
Pollock Cohen LLP
(646) 290-7509
max@pollockcohen.com
Counsel for Amici Curiae

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