



**For Immediate Release**  
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## **Federal Court Unanimously Rejects Rollback of Clean Air Protections**

*Ruling a Major Victory for Public Health in Pennsylvania*

Philadelphia, PA and Washington, DC — In a unanimous decision handed down earlier today, the US Court of Appeals for the DC Circuit struck down the Bush Administration's attempt to dramatically weaken a critical component of the Clean Air Act. The ruling—which came in a lawsuit brought by Clean Air Council, along with states, local governments, and a coalition of other environmental groups—prevents industrial polluters from taking advantage of a regulatory loophole that the Environmental Protection Agency opened in late 2003.

“This ruling is a major victory for public health in Pennsylvania,” said Joseph Otis Minott, Esq., Executive Director of Clean Air Council, a statewide environmental group. “The court has agreed that the Bush administration has gone too far in its attempts to re-write the nation's environmental laws in favor of big energy companies.”

The loophole at issue would have exempted 20,000 power plants, refineries, and other industrial sources of air pollution from the statutory requirement to update their pollution controls whenever they make equipment replacements that result in increased air pollution. If the exemption had been upheld, outdated facilities across the country would not have to install pollution controls when they replace equipment – even if the upgrade increases pollution—as long as the cost of the replacement did not exceed twenty percent of the cost of the entire unit.

The court found that such an exemption clearly violated Congress's intent, as expressed in the Clean Air Act's New Source Review (NSR) provisions. Specifically, the three judge panel ruled that the equipment replacement projects fit within the statutory category of “physical changes,” and therefore are subject to regulation under NSR.

Air pollution from power plants and other industrial sources is responsible for asthma attacks, respiratory disease, heart attacks, and premature death suffered by hundreds of thousand of Americans every year. The NSR program is essential to controlling these dangerous emissions. If EPA fully enforced New Source Review at coal-fired power plants, at least 5,500 premature deaths and 80,000 asthma attacks would be avoided annually. The US Department of Justice is currently prosecuting power plants for violating the same NSR provisions that the court today blocked EPA's attempt to gut.

Clean Air Council was represented by the Clean Air Task Force, a member of the Clear the Air coalition. The court's decision is online at:

<http://pacer.cadc.uscourts.gov/docs/common/opinions/200603/03-1380a.pdf>

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