Indirectly Regulated Parties Face No Heightened Burden for Establishing Standing When It Comes to Redressability

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Diamond Alternative Energy, LLC v. Environmental Protection Agency, 145 S. Ct. 2121 (June 20, 2025)

Disputes over standing in federal court usually concern a plaintiff's injury—whether the plaintiff can show he has suffered real *harm*. In *Diamond Alternative Energy LLC v. Environmental Protection Agency*, however, the U.S. Supreme Court addressed an oft-forgotten element of standing: redressability—whether the court can *remedy* that harm through the plaintiff's claim. Specifically, the Supreme Court addressed how third parties may establish standing to challenge regulations directed at other parties.

Diamond Alternative Energy contemplates the standing of fuel-producing companies that had challenged the U.S. Environmental Protection Agency's (EPA) approval of California's electric vehicle (EV) mandates. The Clean Air Act allows states to adopt more stringent mandates rather than merely complying with the EPA's lower standards. California's EV mandates required that automakers make more electric cars and fewer gas-powered cars. A group of fuel producers sued the EPA and sought an order invalidating its approval, which would vacate California's regulations.

After intervening, California sought to dismiss the fuel producers' challenge based on standing. California acknowledged that the producers were originally harmed when the EV mandate went into effect, considering the regulations mandated more electric vehicles, which meant fewer gas-powered vehicles and decreased sales. But California further argued that the car market had fundamentally changed as a result of the mandates. California believed that consumer preferences and manufacturer supply had now so favored electric vehicles that vacating the EV mandates would not necessarily redress the fuel producer's injury. California maintained

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that the producers had no evidence that automakers would, in fact, make more gas-powered cars after the mandate was invalidated, and further argued that the producers could not rely only on inferences about what would likely happen were they to win. While it conceded that the fuel producers had established injury-in-fact and causation, California argued that the producers could not establish redressability.

In a 7-2 ruling, the Supreme Court rejected California's arguments across the board. It advised lower courts not to "make standing law more complicated than it needs to be." The Supreme Court dismissed the notion that the producers needed to show how invalidating the EV mandates would have a fundamental change in the economy, as opposed to simply remediating their injuries. As the parties agreed that even one dollar of reduced fuel sales resulting from the EV mandates constituted injury for purposes of standing, the Supreme Court held that the producers only needed to show how invalidating the mandate would likely result in at least that amount of increased sales to establish redressability. From that perspective, the only remaining question was how to make that showing.

To define the standard required for making such a showing, the Supreme Court drew upon a line of redressability precedents concerned with challenges to regulations that were targeted at one business but that had caused injuries to other "linked" business in the chain. The majority held that, under those precedents, the redressability inquiry has only required a plaintiff to "show a predictable chain of events" that would "likely" result from judicial relief based on the "likely" responses of third parties. Applying that test, the majority held that "the totality of record evidence, along with commonsense inferences about market realities, readily suffice[d] to demonstrate standing" for the fuel producers.

First, the Supreme Court reviewed commonsense economic principles, which it confirmed were legitimate considerations and not impermissible speculation. Applying those commonsense inferences, the majority recognized that, just as it was true that adopting the EV mandates would likely result in *fewer* gas-powered cars, it was also true that invalidating the EV mandates would likely

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result in *more* gas-powered cars, which, in turn, would remediate the fuel producers' injury. Although car markets had presumably adjusted to the mandates since they were first implemented, the Supreme Court noted that California was still defending the regulations in court, which presumably meant the mandate was still having some effect. The majority reiterated that only a likelihood of predictable responses is required to establish redressability, not certainty about the result. The Supreme Court found that California's own conduct supported the commonsense notion that invalidating the EV mandates would likely decrease demand for electric cars and thereby redress the fuel producer's injury—at least insofar as the producers were required to show a likely increase in current sales by at least one dollar.

Second, the Supreme Court reviewed the record evidence, which it found had "confirmed what common sense t[old] us." In support of standing, the fuel producers had submitted California's original administrative record, which included the state's own projections of a reduction in fuel demand resulting from the regulations. And, among other submissions, the producers pointed to evidence submitted by intervening EV manufacturers, which predicted that automakers would seek a competitive advantage by selling more gas-powered cars if the regulations were invalidated. Combined, the evidence showing how the fuel market would likely react to the EV mandates and how third parties would likely react upon its invalidation supported the notion that invalidating the regulations would likely have some positive impacts on fuel producers.

California argued that the producers were required to submit harder proof from either experts or directly regulated automakers that showed how market behaviors would, in fact, change if the regulations were invalidated, but the Supreme Court advised that no specific form of evidence was necessary to show the "predictable chain of events" that would "likely result from judicial relief." The majority noted that imposing a heightened requirement would have made the producer's standing dependent on whether third parties shared the producers' litigation interests or were willing to publicly oppose a government regulator, both of which introduced gamesmanship into the standing analysis.

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Finally, the Supreme Court left open the possibility that an argument like California's might win in the future. The majority recognized that there might be the "rare and unusual scenario" "where a market has permanently and dramatically changed such that invalidating a challenged relation would have no effect on the market in question, thereby defeating redressability." However, the Supreme Court believed that scenario was unlikely for two reasons. First, government defendants do not usually enforce and defend regulations in court that have absolutely no continuing effects on a market. As a result, when a plaintiff's standing is challenged, the government-defendant's litigation conduct will undermine their redressability challenge. And second, regulations often have unpredictable impacts on dynamic markets. The Supreme Court determined that market-wide compliance with government policy, like the EV mandates, often indicates that the challenged regulation is having its intended effect, rather than the opposite. As a result, the Supreme Court advised lower courts to be reluctant to predict that invalidating a regulation would have zero impact on the relevant market.

The Supreme Court ultimately held that the fuel producers' suit presented the common scenario in which preventing a defendant from inflicting the plaintiff's harm would necessarily remediate that harm. The court held that, "[b]ecause the fuel producers have suffered classic monetary injury caused by a government regulator, it would be surprising and unusual if invalidating the regulations did not redress the fuel producers' injuries."

Key Takeaways

- For purposes of redressability, indirectly regulated parties do not have a heightened burden for establishing standing. Parties that are impacted by regulations targeted at other parties can challenge those regulations by identifying the predictable, favorable responses that would likely result from receiving judicial relief.
- Even where long-term regulatory programs have created entirely new markets and engendered voluntary compliance, parties still possess standing to challenge those policies

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where it is likely that market participants might respond differently without them.

- Before finding redressability based on the likely downstream effects of judicial relief, the Supreme Court also noted that some indirectly regulated parties may constitute the direct "objects" of regulation. A party is an "object" of regulation where the regulation directly regulates that party's conduct, as opposed to an indirectly regulated party who only suffers predictable, downstream effects. Where a party is the "object" of regulation, redressability is rarely ever disputed.

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