



Written by [Brian Koenig](#) on June 27, 2012

D.C. Court Rules in Favor of EPA's Greenhouse Gas Regulations

Following the three-year anniversary on which the U.S. House passed a national cap-and-trade system that would have limited greenhouse gas emissions, a federal appeals court [ruled](#) Tuesday that the Environmental Protection Agency (EPA) is "unambiguously correct" in its legal rationale behind regulating greenhouse gases.

The Court of Appeals for the D.C. Circuit reinforced the EPA's holding that emissions linked to climate change present a veritable risk to public health and welfare. The court also upheld the agency's regulations on vehicles and new coal-production facilities while dismissing all challenges posed by businesses, industry groups, lawmakers, and other opponents of the new standards.



In countering opponents' questions over the EPA's expanding regulatory authority, the three-judge panel balked at critics' concerns that the agency relied on improper evaluations by the National Research Council, the Intergovernmental Panel on Climate Change, and the U.S. Global Change Research Program to bolster its "evidence" that greenhouse gases contribute to global warming and pose a threat to public health.

"This argument is little more than a semantic trick. EPA did not delegate ... any decision-making to any of those entities," the court affirmed. "EPA simply did here what it and other decision makers often must do to make a science-based judgment. This is how science works. EPA is not required to re-prove the existence of the atom every time it approaches a scientific question."

Tuesday's ruling granted the EPA "a green light to keep moving forward" on another round of vehicle-emission requirements and a nationwide emission standard for new power plants, averred David Doniger, an attorney for the environmental group Natural Resources Defense Council.

Naturally, EPA officials, environmentalist groups, and Democratic lawmakers hailed the ruling as a critical step to curb the so-called "perilous effects" of climate change. EPA Administrator Lisa Jackson [called the decision](#) "a strong validation, in the court's own words, the 'unambiguously correct' approach we have taken in responding to the 2007 Supreme Court decision" — which ruled that the EPA was required under the Clean Air Act to elucidate on whether greenhouse gases were a pollutant, and to enact regulations if they were.

"The court's decision should put an end, once and for all, to any questions about the EPA's legal authority to protect us from industrial carbon pollution through the Clean Air Act," asserted Carol Browner, a former climate change adviser in the Obama White House. "This decision is a devastating blow to those who challenge the overwhelming scientific evidence of climate change and deny its



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impact on public health and welfare.”

Rep. Ed Markey (D-Mass.) also offered praise to the ruling, while slamming Republicans and so-called global-warming deniers. “Today’s ruling is a grand slam for the EPA and the health of the American people, and another strikeout for the fossil fuel special interests trying to block clean energy progress,” he charged. “Congressional Republicans should stop denying the science and start working with Democrats to craft more comprehensive and bipartisan responses to the threat posed by global warming.”

Targeting a wide range of industrial facilities, but especially coal-fired power plants, the EPA has unleashed a barrage of new environmental rules, including a requirement to obtain permits for new construction. States that would be largely affected by the rules — including Texas, Virginia, Nebraska, Alabama, and North Dakota — collaborated in an effort to stall the agency’s regulatory blitz on the energy industry.

The Electric Reliability Coordinating Council, an organization that represents utility companies, and many other groups have protested the standards, warning that more regulation will cost the industry billions of dollars and place thousands of American jobs on the line.

“Today’s ruling is a setback for businesses facing damaging regulations from the EPA,” said Jay Timmons, president and CEO of The National Association of Manufacturers. “The EPA’s decision to move forward with these regulations is one of the most costly, complex and burdensome regulations facing manufacturers. These regulations will harm their ability to hire, invest and grow. By moving forward, the EPA is adding to the mounting uncertainty facing manufacturers of all sizes.”

Nicolas Loris, writing on the [Heritage Foundation’s blog](#), adds that regulating carbon dioxide will only further inflate energy prices and “insignificantly reduce global temperatures.” Consequently, businesses that will be burdened with higher energy costs will funnel those costs to consumers. Meanwhile, companies that decide to absorb the costs will halt new investments and expansions, due to higher operating costs and squeezed profit margins. Loris continued:

The EPA’s regulations will not reduce CO₂ enough to have any meaningful effect. Attempting to reduce CO₂ unilaterally will have an insignificant impact on overall global emissions. China and India’s CO₂ emissions are rapidly increasing as they continue to expand their respective economies, and they have no intention of scaling back economic growth to curb emissions. Even if the [EPA were to reduce U.S. carbon emissions 83 percent below 2005 levels](#) by 2050 (what cap-and-trade bills called for), it would constitute a negligible portion of worldwide emissions and do nothing to impact global temperatures.

The most effective way to eliminate such “harmful, bureaucratic regulatory undertakings,” Loris asserts, is to bar the federal government from using greenhouse gas emissions as a medium to abate or eliminate altogether certain economic activity. This type of approach would prohibit federal regulators such as the U.S. Fish and Wildlife Service from wielding environmental regulations that are rationalized through biased and oftentimes skewed climate-related findings.

And the responsibility ultimately lies with our federal lawmakers, Loris concludes, as the EPA’s out-of-control regulatory measures are dropping a massive weight on America’s energy industry: “Congress must stop the implementation of this drastic energy tax.”

Photos: EPA Headquarters in Washington (left) and EPA Administrator Lisa Jackson



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