



Written by [Alex Newman](#) on June 24, 2014

Supreme Court Upholds Most of Obama's EPA "Climate" Regime

Starting from the [widely ridiculed premise](#) that the essential-to-life gas carbon dioxide exhaled by humans is "pollution," the Supreme Court [upheld](#) most of the Obama administration's radical EPA executive decrees regulating various industry sources of atmospheric CO₂. Self-styled "environmentalist" groups and Big Business both declared victory after the controversial ruling. Common sense, the scientific method, the separation of powers, and the Constitution, however, suffered another brutal defeat at the hands of Washington, D.C., and the high court. The poor, meanwhile, will suffer the most as the added costs of Obama's anti-carbon crusade are passed on to consumers.



Under the latest decision, the Environmental Protection Agency — itself created by an unconstitutional executive order from then-President Nixon — is allowed to regulate emissions of carbon dioxide from sources such as power plants and oil refineries. The EPA had claimed the power to regulate just about everything that produces CO₂ emissions, which includes just about everything. [Every time a person exhales, for example, carbon dioxide is released](#). Plants, in turn, need CO₂ to live. However, under the June 23 Supreme Court ruling, smaller "emitters" such as schools, small businesses, churches, apartments, and more, are off limits to EPA decrees — at least for now.

Unsurprisingly, the [scandal-plagued EPA](#) was more than pleased with the deeply controversial decision, calling it a "good day" for supporters of "clean air," "public health," and creating a "better" environment. "The Supreme Court's decision is a win for our efforts to reduce carbon pollution because it allows E.P.A., states and other permitting authorities to continue to require carbon pollution limits in permits for the largest pollution sources," the agency said in a statement after its victory, again referring to CO₂ — described by scientists as the "gas of life" — as "pollution."

It was not clear whether Supreme Court justices and EPA bureaucrats view their breath as pollution, or merely CO₂ from sources the Obama administration does not approve of, [such as energy production](#). Despite the fact that carbon dioxide is crucial to life on Earth and that human emissions of the gas make up a fraction of one percent of the "greenhouse gases" present naturally in the atmosphere, the EPA will continue to be allowed to claim that it is pollution — and to regulate it as such. The flawed EPA basis for regulating CO₂ as a "pollutant," of course, was upheld by the Supreme Court in the radical 2007 *Massachusetts v. EPA* ruling.

On the other hand, the EPA had also been plotting to usurp even more extreme powers that had not been granted to it by Congress, even under the most outlandish interpretations of the unconstitutional



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“Clean Air” statute. That act purports to mandate federal regulations on air “pollution,” which the EPA extended to CO₂ emitted by humans. A majority of the court rejected the notion that the EPA could simply “interpret” the statute in whatever way it wanted to advance its agenda.

“An agency has no power to ‘tailor’ legislation to bureaucratic policy goals by rewriting unambiguous statutory terms,” Justice Antonin Scalia wrote in a part of the decision joined by four other justices. “It would be patently unreasonable — not to say outrageous — for E.P.A. to insist on seizing expansive power that it admits the statute is not designed to grant.”

The original “Clean Air” statute purported to grant the EPA power to regulate sources releasing between 100 to 250 tons of certain actual pollutants — numbers that would, by the EPA’s own admission, be utterly ridiculous if applied to CO₂. The EPA simply “interpreted” the threshold as between 75,000 to 100,000 tons per year when applied to carbon dioxide. In a convoluted effort to save the Obama administration from its own absurd arguments — as with the ObamaCare “tax” that was not supposed to be a “tax” — the Supreme Court rejected that bogus reasoning but provided new ones to support the EPA.

Legal experts cited in media reports framed the controversial ruling as a “warning shot” at Obama’s EPA and its ongoing usurpation of power via a growing avalanche of regulatory decrees and edicts. “We are not willing to stand on the dock and wave goodbye as E.P.A. embarks on this multiyear voyage of discovery,” Justice Scalia also wrote in the relevant section of the ruling, supposedly restraining the agency’s ability to impose an ever-growing burden of regulations without any sort of legitimate authority from Congress to do so.

Some analysts said the harsh language in the decision indicated that the high court was likely to further scrutinize EPA power grabs going forward. Despite the ruling disagreeing with EPA interpretations, though, the agency got virtually everything it wanted, even if the Supreme Court had to change the supposed legal rationale underpinning the regulatory assaults. Justice Scalia admitted as much while announcing his decision, pointing out that the EPA wanted to regulate sources responsible for 86 percent of emissions and the court allowed regulation of 83 percent instead.

Still, plaintiffs in the lawsuit against the EPA claimed victory in the case. The National Federation of Independent Business, for example, celebrated the ruling’s supposed limitations on allowing the EPA to rewrite statutes passed by Congress. “If this rule had been allowed to stand, small-business owners such as ranchers, farmers, manufacturers, restaurant owners and others would have seen more paperwork, more oversight and fines,” the federation said.

Separately, a spokesperson for the American Coalition for Clean Coal Electricity expressed hope that the EPA’s “massive mission creep will be subject to the scrutiny it deserves and stricken down by the judiciary in the future.” The American Fuel & Petrochemical Manufacturers, meanwhile, claimed the latest high-court decision “makes clear that an agency cannot rewrite the law to advance its political goals.” Numerous state governments led by Texas were also involved in challenging the EPA’s purported authority, as was the U.S. Chamber of Commerce.

Establishment arguments aside, even the briefest examination of carbon dioxide or the U.S. Constitution would reveal the absurdity of the entire discussion. First of all, the Constitution very specifically defines the powers of the federal government. Nowhere among those enumerated powers is there anything about regulating CO₂ — or anything that could even be remotely interpreted as permission to do so. As such, if CO₂ or any other gas is to be regulated, the 10th Amendment requires



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such regulation to be imposed by state governments. The other alternative would be a properly ratified constitutional amendment.

Even the notion that CO₂ should be regulated, though, is widely ridiculed and criticized by independent scientists and experts. “CO₂ is ‘the gas of life,’” said Dr. Tom Segalstad, associate professor of resource and environmental geology and geochemistry at the University of Oslo. “The more CO₂, the more life. More CO₂ means we can feed more people on Earth. CO₂ is contributing very little to the ‘greenhouse effect’. Clouds have much more influence on temperature.”

Dr. Segalstad is a contributing author with the [Nongovernmental International Panel on Climate Change](#), or NIPCC, which produced a landmark survey of climate science and came to very different conclusions than the United Nations’ discredited “climate” fear-mongering reports. NIPCC lead author and meteorologist Dr. Madhav Khandekar, who also worked with the UN climate body until becoming outraged by its lack of interest in proper scientific review, also pointed out that human-added CO₂ is not destabilizing the climate.

Even if CO₂ were harmful “pollution,” rather than a beneficial and natural gas that is crucial to life on this planet, efforts to limit human emissions of the gas to control “climate” would still be beyond laughable. Water vapor, of course, is the primary “greenhouse gas” in the atmosphere, accounting for around 95 percent of the so-called “greenhouse effect.” That gas is entirely beyond human control, and there is no dispute on any of those facts — even among the most devoted alarmists.

Carbon dioxide, meanwhile, accounts for about 0.04 percent of the gases present in Earth’s atmosphere. Of that, [according to scientific estimates](#), less than 3.3 percent comes from human emissions such as the burning of fossil fuels. The vast majority comes from the oceans at around 42 percent, or the biosphere at about 55 percent — volcanoes, wild fires, decomposition, and more. In other words, less than 0.3 percent of the “greenhouse gases” can be attributed to human activities. Of that tiny sliver attributed to humans, Americans are responsible for less than 20 percent.

Of course, all of that data ignores the fact that [there has been no global warming for 18 years](#) and counting, while [every one of the UN’s 73 climate models predicted significant warming over that time period as CO₂ emissions continued](#). In other words, the theory advanced by the UN, the Obama administration, and all of the taxpayer-funded global-warming theorists to regulate CO₂ is itself shown to be incorrect by the observable evidence.

Nonetheless, the Supreme Court just helped ensure that Americans — and especially the poor — will continue to suffer for the [Obama administration’s flawed view](#) of both the Constitution and climate science. It is now up to Congress to protect the American people by defunding the EPA and its radical, expensive power grabs. Whether the Republican-controlled House of Representatives will [use its constitutional authority to stop the assault on America](#) and its economy, though, remains to be seen.

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