

Federal Court Upholds EPA's Global Warming Rules

DINA CAPPIELLO, Associated Press



WASHINGTON (AP) — A federal appeals court on Tuesday upheld the first-ever regulations aimed at reducing the gases blamed for global warming, handing down perhaps the most significant decision on the issue since a 2007 Supreme Court ruling that greenhouse gases could be controlled as air pollutants.

The rules, which had been challenged by industry groups and several states, will reduce emissions of six heat-trapping gases from large industrial facilities such as factories and power plants, as well as from automobile tailpipes.

A three-judge panel of the U.S. Court of Appeals in Washington said that the Environmental Protection Agency was "unambiguously correct" in using existing federal law to address global warming, denying two of the challenges to four

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separate regulations and dismissing the others.

Michael Gerrard, director of the Center for Climate Change Law at Columbia University, said no one expected the "complete slam dunk" issued by the court Tuesday, and said the decision was exceeded in importance only by the Supreme Court ruling five years ago.

It also lands during a presidential election year where there are sharp differences between the two candidates when it comes to how best to deal with global warming.

President Barack Obama's administration has come under fierce criticism from Republicans, including Mitt Romney, for pushing ahead with the regulations after Congress failed to pass climate legislation, and after the Bush administration resisted such steps. In 2009, the EPA concluded that greenhouse gases endanger human health and welfare, triggering controls on automobiles and other large sources. But the administration has always said it preferred to address global warming through a new law.



Carol Browner, Obama's former energy and climate adviser, said the decision "should put an end, once and for all, to any questions about the EPA's legal authority to protect us from dangerous industrial carbon pollution," adding that it was a "devastating blow" to those who challenge the scientific evidence of climate

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change.

EPA Administrator Lisa Jackson called the ruling a "strong validation" of the approach the agency has taken.

The court "found that EPA followed both the science and the law in taking common-sense, reasonable actions to address the very real threat of climate change by limiting greenhouse gas pollution from the largest sources," Jackson said in a statement.

At a town hall meeting in New Hampshire last year Romney, the presumptive Republican presidential nominee, said it was a mistake for the EPA to be involved in reducing emissions of carbon dioxide, the chief greenhouse gas.

"My view is that the EPA is getting into carbon and regulating carbon has gone beyond the original intent of the legislation, and I would not go there," he said.

The court on Tuesday seemed to disagree with Romney's assessment when it denied two challenges to the administration's rules, including one arguing that the agency erred in concluding greenhouse gases endanger human health and welfare. Lawyers for the industry groups and states argued that the EPA should have considered the policy implications of regulating heat-trapping gases along with the science. They also questioned the agency's reliance on a body of scientific evidence that they said included significant uncertainties.



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The judges — Chief Judge David Sentelle, who was appointed by Republican President Ronald Reagan, and David Tatel and Judith Rogers, both appointed by Democrat Bill Clinton — flatly rejected those arguments.

"This is how science works," the unsigned opinion said. "EPA is not required to re-prove the existence of the atom every time it approaches a scientific question."

Industry groups vowed to fight on.

"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. "We will be considering all of our legal options when it comes to halting these devastating regulations. The debate to address climate change should take place in the U.S. Congress and should foster economic growth and job creation, not impose additional burdens on businesses."

Environmentalists, meanwhile, called it a landmark decision for global warming policy, which has been repeatedly targeted by the Republican-controlled House.

"Today's ruling by the court confirms that EPA's common-sense solutions to address climate pollution are firmly anchored in science and law," said Fred Krupp, president of the Environmental Defense Fund.

The court also dismissed complaints against two other regulations dealing with pollution from new factories and other industrial facilities. The plaintiffs had argued that the EPA misused the Clean Air Act by only requiring controls on the largest sources, when the law explicitly states that much smaller sources should also be covered.

The judges, when presented with these arguments in February, cautioned the industry groups and states to be careful what they wished for. If EPA chose to follow the letter of the law, they said, greenhouse gas regulations would place even more of a burden on industry and other businesses.

Lawyers for the various states said that if that were to occur, Congress would pass a law to stop it.

Citing a "Schoolhouse Rock" video, the judges in their opinion reminded petitioners that "It's not easy to become a law." They even provided a link to the popular video that explains how bills become laws.

"We have serious doubts as to whether ... it is ever 'likely' that Congress will enact legislation at all," they said.

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