



## ⦿ Court rejects efforts by Texas, others to halt government action against global warming

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A federal appeals court on Tuesday knocked down efforts by Texas and others to halt government action against global warming.

Judges rejected opponents' attacks on the Environmental Protection Agency's climate science. They said the EPA was "unambiguously correct" in asserting its authority to regulate climate-changing gases from tailpipes and industrial smokestacks.

A three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit turned away arguments by Texas, other states and industry groups that the EPA overstepped its authority and embraced unproven, politically driven science on global warming.

Gov. Rick Perry and Attorney General Greg Abbott have attacked climate science and the steps the federal government has begun taking to reduce greenhouse gases, such as planning future standards for vehicles and big industries.

Alone among the states, Texas refused to cooperate this year when the EPA began requiring large companies to apply for greenhouse gas permits.

Environmentalists called the court's unanimous ruling a victory for science and public health.

"Today's ruling underscores what we have long known — that EPA's climate protections are firmly grounded in science and law and will help secure a healthier, more prosperous future for all Americans," Elena Craft, a health scientist with the Environmental Defense Fund's Austin office, said in a prepared statement.

Lisa P. Jackson, the EPA administrator, noted the ruling on her Facebook page.

"Today the U.S. Court of Appeals validated the scientific and legal underpinnings of the common sense steps we have taken to address climate change by limiting emissions from the largest sources," Jackson wrote.

Abbott called the ruling "deeply disappointing" and said Texas was considering its appeal options.

The appeals court "failed to rein in the unelected bureaucrats at the [environmental] agency who are holding our country's energy independence and fragile economy hostage to a radical environmental agenda," the attorney general said in a statement.

Perry said the ruling leaves Texans "in the path of a reckless agency guided not by science, but by a political agenda handed down from the top."

"It's disappointing that today's ruling allows the EPA to continue its overreach in what we maintain is an utter disregard for the appropriate application of the Clean Air Act," the governor said in a statement.

The panel included Chief Judge David B. Sentelle, first appointed to the appeals court by President Ronald Reagan in 1987, and Circuit Judges Judith W. Rogers and David S. Tatel, both appointed by President Bill Clinton in 1994.

Options for those challenging the EPA rules include requesting a hearing before the full 13-judge appeals court or asking the Supreme Court to review the case.

Chances for a reversal by the Supreme Court seem uncertain, however, since the high court has already ruled in a similar case.

In that 2007 case, the Supreme Court rejected similar objections and declared that the Clean Air Act protects the public from greenhouse gases that cause global warming.

Before that, the act had governed conventional emissions such as smog, acid rain and soot.

That ruling cleared the way for the EPA for the first time to classify greenhouse gases as harmful pollutants, based on the premise that hotter average global temperatures would endanger people and disrupt natural ecosystems.

The appeals court unanimously rejected each challenge to the EPA regulations that grew from the Supreme Court decision.

Opponents of federal climate action told the appeals court that the scientific case for global warming caused by human activities is unproven and that the EPA relied on faulty, biased evidence to justify its rules.

"Neither objection has merit," the appeals court said.

The six state challengers — "led by Texas," the court said — also argued that the EPA could not act because it could not define the exact amount of greenhouse gases in the atmosphere that would endanger the public, as it does with smog.

The court rejected Texas' contention, calling it "in its essence ... no more than a specialized version of industry petitioners' claim that the scientific record contains too much uncertainty to find endangerment."

The appeals court upheld the EPA's scientific review in support of greenhouse gas limits. The judges wrote that their job was not to rule on the merits of the science, but to determine whether the EPA had a reasonable basis for making its decision.

"EPA had before it substantial record evidence that anthropogenic emissions of greenhouse gases 'very likely' caused warming of the climate over the last several decades," the court wrote. "EPA further had evidence of current and future effects of this warming on public health and welfare."

Opponents said the EPA scientific review was illegal because the agency built it on others' research rather than launching new global-warming studies. That argument was "little more than a semantic trick," the judges wrote.

"Even individual studies and research papers often synthesize past work in an area and then build upon it," they wrote.

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

## AT A GLANCE

### Background

**2007** — Supreme Court rules that heat-trapping greenhouse gases blamed for global warming can be controlled as air pollutants.

**2009** — EPA concludes the gases endanger human health, triggering controls on automobiles and large industrial facilities.

**Tuesday** — A federal appeals court upholds regulations that had been challenged by industry groups and several states, including Texas.

## AT A GLANCE

### Unanimous ruling

**What the court found:** The EPA was "unambiguously correct" in using existing federal law to address global warming, denying two of the challenges to four separate regulations and dismissing the others.

**What opponents argued:** The EPA should have considered, along with the science, the policy implications of regulating heat-trapping gases. They also questioned the agency's reliance on a body of scientific evidence they said included significant uncertainties.

**The judges' response:** "This is how science works. EPA is not required to re-prove the existence of the atom every time it approaches a scientific question."

**What's next:** Jay Timmons, president and CEO of the National Association of Manufacturers, said, "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."