

# After mercury ruling, higher scrutiny of Obama climate rules

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This Sept. 30, 2014 file photo shows the Colstrip Steam Electric Station operated by Talen Energy in southeastern Montana. Coal companies and their supporters scored a courtroom victory with a U.S. Supreme Court decision that said the Obama administration failed to take potential costs into account when it decided to regulate toxic emissions from many power plants, Monday, June 29, 2015. (AP Photo/Matthew Brown, File)

Sweeping pollution limits at the center of President Barack Obama's climate change plan are facing increased scrutiny in the wake of a

Supreme Court ruling that showed that the justices aren't afraid to thwart perceived overreach by Obama or his Environmental Protection Agency.

The high [court](#)'s ruling undermined Obama administration regulations targeting mercury and other hazardous air pollutants—a different set of regulations from the greenhouse gas limits that Obama is counting on to slow the effects of global warming. Still, the court's willingness to rein in the EPA emboldened opponents of Obama's climate change agenda, who said the court had finally woken up to what they call the haphazard and costly nature of the environmental regulations that Obama has put forth.

Mike Duncan, president of the American Coalition for Clean Coal Electricity, which lobbies for the coal industry, said he hoped that following Monday's ruling, the EPA would withdraw its pending greenhouse gas rules out of recognition of the limits of its own authority.

"If they don't, I'm sure we'll be seeing them in court again very soon," Duncan said.

The Supreme Court ruled 5-4 that the EPA failed to account properly for the costs to industry when it first decided to regulate mercury and other toxic emissions from coal- and oil-fired plants. The decision sends the case back to a lower court while leaving the rules in place, but industry advocates say it's largely too late. That's because many [power plants](#) shuttered while others installed costly upgrades in order to comply with the rule, which took effect in April.

Yet the mercury rules, while an important part of Obama's environmental legacy, pale in comparison to the unprecedented carbon dioxide limits for power plants that the White House is expected to finalize in August. Obama is counting on drastic emissions reductions from those rules to meet the U.S. commitment to a major global climate treaty that Obama has been championing.

In developing the carbon dioxide rules, the EPA did take into account the anticipated cost to industry—\$7.3 billion to \$8.8 billion, to be exact. EPA spokeswoman Melissa Harrison said the agency has long considered cost when writing rules based on the section of the Clean Air Act that's being used to curb carbon dioxide emissions.

"There is no reason that this court ruling should have any impact on the ability of the administration to develop and implement the Clean Power Plan," added White House press secretary Josh Earnest, using the administration's nickname for the carbon rules.

Still, those rules face a bevy of other legal challenges, including claims that the technology needed for power plants to comply isn't yet commercially available or affordable. Opponents in Congress and the energy industry argue the administration has failed to prove that such technology has been "adequately demonstrated" and therefore can't require its use.

Previously, the White House had enjoyed a string of victories defending its environmental rules before the Supreme Court, including decisions allowing the government to regulate pollution that crosses state lines and affirming that the EPA can use the Clean Air Act to reduce greenhouse gases. Monday's ruling on mercury, which followed Obama victories before the court last week on health care and gay marriage, offered hope to Obama's opponents that the court was finally willing to block the EPA from exceeding its authority.

That affirmation from the court provided fodder for Republicans in Congress who have encouraged states to simply ignore Obama's [climate change](#) rules. Senate Majority Leader Mitch McConnell, of the coal-heavy state of Kentucky, said the mercury ruling was a "critical reminder" for governors that Obama's regulations would inflict pain on the middle class. McConnell's office said he had conveyed to the

governors that there would be no consequences to waiting to see whether the regulations even survive in the courts.

Another factor: Since the mercury rules had already gone into effect before the Supreme Court ruled against them on Monday, industry groups said the damage had already been done. Going forward, one opponent said, the court may be more likely to put a temporary block—known as a "stay"—on the carbon dioxide rules out of recognition that they may eventually be overturned.

Such a move would indefinitely delay Obama's [carbon dioxide](#) limits, a key element of his legacy and his biggest selling point as he urged other world leaders to commit their countries to reduce greenhouse gases as part of the climate treaty to be finalized this year in Paris. Already, Obama is on a short timeline; if the rules aren't firmly in place by the time Obama leaves office in 2017, his successor could do away with them much more easily.

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