

We are at the start of a year of danger for environmental policy. 2015 saw many accomplishments in environmental law: the Administration issued the “waters of the United States” and Clean Power Plan regulations, a Supreme Court ruling in favor of EPA’s cross-state air pollution rule, and the Paris Agreement on climate change. Much of this progress is in jeopardy this year.

The most obvious source of jeopardy is the November election. The Republican presidential candidates are an unruly crew, but they speak with one voice in denouncing EPA and opposing any serious effort to cut carbon emissions. Moreover, a Republican President would be likely to reopen other environmental issues, ranging from mountain-top mining to air quality standards. If Republicans maintain or strengthen their control of Congress, regardless of who is in the White House, we are likely to see further efforts to undermine or roll back some of these accomplishments legislatively, regardless of who is in the White House.

The elections also post a longer-term threat. Given the ages of the Justices, there is a good chance that the next President will make critical appointments to the Supreme Court.

Adding one more staunch conservative to the Court could hurt environmental efforts for years to come.

Speaking of the courts, the other obvious threat is litigation. The major regulations issued last year are all before the courts. So is the mercury standard for power plants, which was remanded by the Supreme Court last year. The Supreme Court has been unpredictable in environmental cases, but it would be hard to say that this is a particularly friendly bench for regulators.

Finally, next year is key internationally. The Paris Agreement was a major step forward, but words on paper don’t reduce carbon emissions. If Paris is really to mean anything, it needs to be followed by action. Nations will undoubtedly be watching each other’s efforts as they decide how seriously to take the agreement. Strong follow-up is essentially.

The risks are not all on the downside. There is also the chance of really solidifying last year’s initiatives if things go well. I suppose every year looks like a possible turning point in one way or another, but 2016 seems so to an unusual extent. Stay tuned for further developments.