Inauguration day is a year from today. What will the balance of power be then? The House doesn't seem to be in play. Democrats have an uphill fight to win the Senate, so a GOP White House would probably mean a GOP Senate. That leaves three likely scenarios, with different implications for environmental law.

Scenario 1

GOP White House and Senate, but Democratic House.

Most likely the GOP President would be Donald Trump. However, this doesn't really matter because his environmental policies are generally in line with his party's. The current round of Trump Administration regulations would continue their way through the courts. There's a good chance that the President would get to replace at least one of the liberal Justices, assuring conservatives a 6-3 majority for at least the next decade and probably much longer. Moving beyond the current round of deregulation, we might also see some more radical rollbacks for air and water quality, not to mention climate change regulations.

Scenario 2

Democrats win WH and House, but GOP keeps Senate

In this scenario, it would be difficult if not impossible to pass major environmental legislation. Probably the best bet would be programs to expand the use of renewable energy, in the form of direct government spending, tax credits, or conceivably some mild regulatory encouragement. A new Democratic President could begin the process of unwinding Trump's regulations and hopefully keep the courts from ruling on existing litigation until then. The President could also start adding liberals and moderates to the lower courts, although the Senate GOP would surely slow-walk those nominations. Whether Mitch McConnell would allow the Senate to vote on any Supreme Court appointments is unclear.

Scenario 3

Unitary Government by Democrats.

In this scenario, the Democratic President would have a good chance of appointing more moderate/liberal judges to the lower federal courts. Assuming one or more of the four current liberal Justices steps down, the Democratic President could replace

them with at least moderately liberal Justices. It might be hard to keep all the Democratic Senators on board for someone further to the Left than say Breyer or Kagan, but that's hard to predict. Apart from Clarence Thomas, the conservative Justices are all pretty young and unlikely to leave soon. Legislative action would face two barriers: the possibility of a Republican filibuster, and the need for moderate Democratic votes to reach even a bare majority. Consequently , there are limits to what could be done in terms of climate legislation, although some chance of making reasonable progress. We might, for instance, see a large spending bill for renewable infrastructure. It's also possible a carbon tax could be passed using the reconciliation procedure.

Takeaways

The big takeaways: it's likely that things will get much worse for environmental regulation if the GOP keeps the White House and the Senate; whereas at least moderate progress is possible under the other scenarios.

If there's one thing we've learned in the past few years, it's the unpredictability of politics. So these seem like the most plausibility possibilities, but life could surprise us again. Maybe Trump or Senate Republicans will wake up one day with a passion to do something about climate change. Or maybe the Democrats will unexpectedly pick up a half dozen or more Senate seats. Of course, surprises could work the other way too.

Should be an interesting year!