

Summary

The Trump Administration failed to persuade a court to throw out a key air pollution standard. This is a major setback for the Administration's effort to weaken environmental protections.

Trump has used all kinds of unconventional techniques to undermine environmental regulations, from enforcement slowdowns and emergency exemptions to budget cuts and lawsuits against states. The Administration has moved more slowly, however, on actually wiping Biden's regulations off the books. On Friday, the D.C. Circuit decisively rejected one important rollback effort by the Trump EPA. In doing so, it saved (at least for now) a crucial protection for public health.

The case involved the air quality standard for fine particulates (PM_{2.5}). The standards are supposed to be subject to a thorough review every five years. In Trump's first term, his EPA decided against tightening the existing standard PM_{2.5} (12 µg/m³). The Biden EPA reopened the issue and tightened the standards to 9 µg/m³, based mostly on rigorous new studies of the health effects of PM_{2.5}. The Biden standard was challenged in the D.C. Circuit, and after the election, the Trump EPA asked the court to strike down the new standard.

The Trump Administration had a series of arguments for why the new standard was invalid:

1. To issue a new standard, the Biden EPA should have done the same "thorough review" of *all* the evidence required every five years, even though the Biden EPA was taking an off-cycle action.
2. Before reopening the standard, the Biden EPA should have considered whether a tougher standard would be feasible to achieve.
3. The statute would be an unconstitutional delegation of discretion if it were interpreted to eliminate consideration of cost and feasibility.
4. The Biden EPA had based the new standard on environmental justice and climate concerns (which everyone agreed were not relevant under the statute).
5. The Biden EPA had failed to provide a reasonable assessment of the evidence.

In a unanimous [opinion](#), the D.C. Circuit rejected all these arguments. The opinion was written by Judge Ginsburg, a libertarian who belongs to the court's conservative bloc. He's no friend of environmental regulation (or of regulation of any kind).

Nevertheless, his opinion concludes that many of the Trump arguments were foreclosed by an opinion written by Justice Scalia in an earlier case or by the plain language of the Clean Air Act.

No doubt the Supreme Court will be asked to overturn the D.C. Circuit's ruling. While it's not impossible to imagine that the Court might intervene, doing so would probably require it to hear oral argument, given the importance and complexity of the case. That's unlikely to happen quickly and may not happen at all, given the clarity of the D.C. Circuit's opinion. Unless the Supreme Court intervenes, the Trump Administration will only be able to change the standard by providing a credible reanalysis of the scientific evidence. That kind of an analysis hasn't exactly been a strong point of Trump's agencies.