

Table 1: Litigation Challenges to EPA Clean Air Act Rules Promulgated Under the Obama Administration

Contents

Table 1: Litigation Challenges to EPA Clean Air Act Rules Promulgated Under the Obama Administration 1

Table 2: Cases About Rules Promulgated During the Obama Administration that Were Dismissed on Procedural Grounds..... 8

Table 3: Litigation Challenges to Major EPA Clean Air Act Rules Promulgated Under the Bush Administration and Defended by (or Decided During) the Obama Administration..... 10

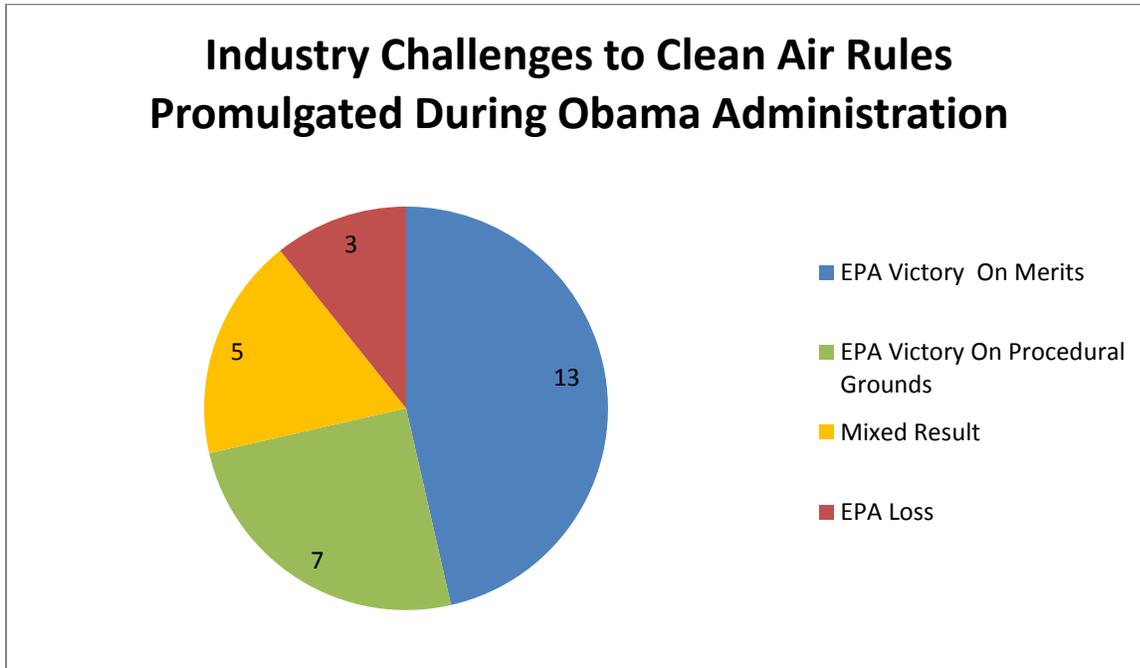


Table 1: Litigation Challenges to EPA Clean Air Act Rules Promulgated Under the Obama Administration

Litigation	EPA Rule(s)	Outcome of Litigation
Arkema Inc. v. U.S. EPA, 618 F.3d 1 (D.C. Cir. 2010)	Protection of Stratospheric Ozone: Adjustments to the Allowance System for Controlling HCFC Production, Import, and Export, 74 Fed. Reg. 66,412 (Dec. 15, 2009)	EPA loss to industry challenge.
National Petrochemical & Refiners Association v. U.S. EPA, 630 F.3d 145 (D.C. Cir. 2010)	Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program, 75 Fed. Reg. 14,670 (Mar. 26, 2010)	EPA victory over industry challenge.

Table 1: Litigation Challenges to EPA Clean Air Act Rules Promulgated Under the Obama Administration

<p>Medical Waste Institute & Energy Recovery Council v. U.S. EPA, 645 F.3d 420 (D.C. Cir. 2011)</p>	<p>Standards of Performance for New Stationary Sources and Emissions Guidelines for Existing Sources: Hospital/Medical/Infectious Waste Incinerators, 74 Fed. Reg. 51,368 (Oct. 6, 2009)</p>	<p>EPA victory over industry challenge.</p>
<p>Portland Cement Association v. U.S. EPA, 665 F.3d 177 (D.C. Cir. 2011)</p>	<p>National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants, 75 Fed. Reg. 54,970 (Sept. 9, 2010)</p>	<p>Partial victory for EPA over challenges from industry and environmental groups. The court upheld EPA’s NSPS rulemaking but granted an industry group’s petitioner for review of the NESHAP rule. The court also dismissed environmental petitioners’ challenge for lack of jurisdiction.</p>
<p>American Petroleum Institute v. U.S. EPA, 684 F.3d 1342 (D.C. Cir. 2012)</p>	<p>Primary National Ambient Air Quality Standards for Nitrogen Dioxide, 75 Fed. Reg. 6,474 (Feb. 9, 2010)</p>	<p>EPA victory over industry challenge.</p>

Table 1: Litigation Challenges to EPA Clean Air Act Rules Promulgated Under the Obama Administration

<p>Coalition for Responsible Regulation, Inc. v. U.S. EPA, 684 F.3d 102 (D.C. Cir. 2012), <i>aff'd in part and rev'd in part sub nom.</i> Utility Air Regulatory Group v. U.S. EPA, 134 S. Ct. 2427 (2014)</p>	<p>Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act, 74 Fed. Reg. 66,523 (Dec. 15, 2009);</p> <p>Reconsideration of Interpretation of Regulations That Determine Pollutants Covered by Clean Air Act Permitting Programs, 75 Fed. Reg. 17,004 (Apr. 2, 2010) (Triggering Rule);</p> <p>Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards, 75 Fed. Reg. 25,324 (May 7, 2010) (Tailpipe Rule);</p> <p>Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule, 75 Fed. Reg. 31,514 (June 3, 2010) (Tailoring Rule)</p>	<p>Predominant victory for EPA over industry challenge.</p> <p>The D.C. Circuit upheld all four rules. The Supreme Court struck down PSD and Title V permit requirements based solely on GHG emissions, but upheld permit requirements for sources that emit conventional pollutants.</p>
<p>EME Homer City Generation, L.P. v. U.S. EPA, 696 F.3d 7 (D.C. Cir. 2012), <i>rev'd</i> 134 S. Ct. 1584 (2014)</p>	<p>Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals, 76 Fed. Reg. 48,208 (Aug. 8, 2011) (Cross-State Air Pollution Rule)</p>	<p>EPA victory over challenges from state and local governments and industry groups.</p> <p>The Supreme Court reversed the D.C. Circuit's vacatur of the rule.</p>
<p>National Environmental Development Association's Clean Air Project v. U.S. EPA, 686 F.3d 803 (D.C. Cir. 2012)</p>	<p>Primary National Ambient Air Quality Standard for Sulfur Dioxide, 75 Fed. Reg. 35,520 (June 22, 2010)</p>	<p>EPA victory over state governments and industry challenges.</p>
<p>American Petroleum Institute v. U.S. EPA, 706 F.3d 474 (D.C. Cir. 2013)</p>	<p>Regulation of Fuels and Fuel Additives: 2012 Renewable Fuel Standards, 77 Fed. Reg. 1,320 (Jan. 9, 2012)</p>	<p>Partial EPA victory over industry challenge.</p>

Table 1: Litigation Challenges to EPA Clean Air Act Rules Promulgated Under the Obama Administration

<p>Association of Battery Recyclers v. EPA, 716 F.3d 667 (D.C. Cir. 2013)</p>	<p>National Emissions Standards for Hazardous Air Pollutants From Secondary Lead Smelting, 77 Fed. Reg. 556 (Jan. 5, 2012)</p>	<p>EPA victory over industry and environmental groups' challenges.</p>
<p>Daimler Trucks North America LLC v. U.S. EPA, 737 F.3d 95 (D.C. Cir. 2013)</p>	<p>Nonconformance Penalties for On-Highway Heavy-Duty Diesel Engines, 77 Fed. Reg. 54,384 (Sept. 5, 2012)</p>	<p>EPA loss to industry challenge. The court held that EPA had failed to provide required notice and comment opportunities regarding changes made in the final version of the rule. The court vacated the rule after EPA's counsel acknowledged during oral argument that vacatur would cause not harm.</p>
<p>Honeywell International, Inc. v. U.S. EPA, 705 F.3d 470 (D.C. Cir. 2013)</p>	<p>Protection of Stratospheric Ozone: Adjustments to the Allowance System for Controlling HCFC Production, Import, and Export, 76 Fed. Reg. 47,451 (Aug. 5, 2011)</p>	<p>EPA victory over industry challenge.</p>
<p>National Association of Clean Water Agencies v. U.S. EPA, 734 F.3d 1115 (D.C. Cir. 2013)</p>	<p>Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Sewage Sludge Incineration Units, 76 Fed. Reg. 15,372 (Mar. 21, 2011)</p>	<p>Partial EPA victory over industry and environment groups' challenges. The court agreed that some aspects of the rule were not adequately explained and remanded the rule without vacating it. The court rejected the industry challenge to EPA's authority to regulate sewage sludge incinerators.</p>

Table 1: Litigation Challenges to EPA Clean Air Act Rules Promulgated Under the Obama Administration

<p>Texas v. U.S. EPA, 726 F.3d 180 (D.C. Cir. 2013)</p>	<p>Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call, 75 Fed. Reg. 77,698 (Dec. 13, 2010);</p> <p>Action to Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Failure To Submit State Implementation Plan Revisions Required for Greenhouse Gases, 75 Fed. Reg. 81,874 (Dec. 29, 2010);</p> <p>Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan, 75 Fed. Reg. 82,246 (Dec. 30, 2010);</p> <p>Determination Concerning Need for Error Correction, Partial Approval and Partial Disapproval, and Federal Implementation Plan Regarding Texas Prevention of Significant Deterioration Program, 75 Fed. Reg. 82,430 (Dec. 30, 2010);</p> <p>Determination Concerning Need for Error Correction, Partial Approval and Partial Disapproval, and Federal Implementation Plan Regarding Texas's Prevention of Significant Deterioration Program, 76 Fed. Reg. 25,178 (May 3, 2011)</p>	<p>EPA victory over challenges by state governments and industry.</p>
---	---	---

Table 1: Litigation Challenges to EPA Clean Air Act Rules Promulgated Under the Obama Administration

<p>Monroe Energy, LLC v. U.S. EPA, 750 F.3d 909 (D.C. Cir. 2014)</p>	<p>Regulation of Fuels and Fuel Additives: 2013 Renewable Fuel Standards, 78 Fed. Reg. 49,794 (Aug. 15, 2013)</p>	<p>EPA victory over industry challenge.</p>
<p>National Association of Manufacturers v. U.S. EPA, 750 F.3d 921 (D.C. Cir. 2014)</p>	<p>National Ambient Air Quality Standards for Particulate Matter, 78 Fed. Reg. 3,086 (Jan. 15, 2013)</p>	<p>EPA victory over industry challenge.</p>
<p>Oklahoma Department of Environmental Quality v. U.S. EPA, 740 F.3d 185 (D.C. Cir. 2014)</p>	<p>Review of New Sources and Modifications in Indian Country, 76 Fed. Reg. 38,748 (July 1, 2011)</p>	<p>EPA loss to state government challenge.</p>
<p>Utility Air Regulatory Group v. U.S. EPA, 744 F.3d 741 (D.C. Cir. 2014)</p>	<p>Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction Is Commenced After August 17, 1971; Standards of Performance for Electric Utility Steam Generating Units for Which Construction Is Commenced After September 18, 1978; Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units; and Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units, 74 Fed. Reg. 5,072 (Jan. 28, 2009);</p> <p>National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units, 77 Fed. Reg. 9,304 (Feb. 16, 2012)</p>	<p>EPA victory over state and industry challenges.</p>

Table 1: Litigation Challenges to EPA Clean Air Act Rules Promulgated Under the Obama Administration

<p>White Stallion Energy Center, LLC v. U.S. EPA, 748 F.3d 1222 (D.C. Cir. 2014), <i>rev'd sub nom.</i> Michigan v. U.S. EPA, Nos. 14-46 and 14-49, 2015 U.S. LEXIS 4256 (U.S. June 29, 2015)</p>	<p>National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units, 77 Fed. Reg. 9,304 (Feb. 16, 2012) (Mercury and Air Toxics Standards (MATS) for Power Plants)</p>	<p>Partial victory against state and industry challengers.</p> <p>The D.C. Circuit upheld the rule against a variety of challenges. However, the Supreme Court held that EPA erred by failing to consider costs when determining that regulation was “appropriate and necessary.”</p>
<p>Mexichem Specialty Resins, Inc. v. U.S. EPA, 787 F.3d 544 (D.C. Cir. May 29, 2015)</p>	<p>National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production, 77 Fed. Reg. 22,848 (Apr. 17, 2012)</p>	<p>EPA victory over industry challenge.</p>
<p>Mississippi Commission on Environmental Quality v. U.S. EPA, No. 12-1309, 2015 U.S. App. LEXIS 9115 (D.C. Cir. June 2, 2015)</p>	<p>Air Quality Designations for the 2008 Ozone National Ambient Air Quality Standards, 77 Fed. Reg. 30,088 (May 21, 2012)</p> <p>Air Quality Designations for the 2008 Ozone National Ambient Air Quality Standards for Several Counties in Illinois, Indiana, and Wisconsin; Corrections to Inadvertent Errors in Prior Designations, 77 Fed. Reg. 34,221 (June 11, 2012).</p>	<p>EPA victory over challenges from states, counties, industry and environmental groups.</p>

Table 2: Cases About Rules Promulgated During the Obama Administration that Were Dismissed on Procedural Grounds

Table 2: Cases About Rules Promulgated During the Obama Administration that Were Dismissed on Procedural Grounds

Litigation	EPA Rule(s)	Outcome of Litigation
Chamber of Commerce of the United States v. U.S. EPA, 642 F.3d 192 (D.C. Cir. 2011)	California State Motor Vehicle Pollution Control Standards; Notice of Decision Granting a Waiver of Clean Air Act Preemption for California's 2009 and Subsequent Model Year Greenhouse Gas Emission Standards for New Motor Vehicles, 74 Fed. Reg. 32,744 (July 8, 2009)	EPA victory over industry challenge.
Las Brisas Energy Center, LLC v. EPA, No. 12-1248, 2012 WL 10939210 (D.C.Cir.2012)	Standards of Performance for Greenhouse Gas Emissions From New Stationary Sources: Electric Utility Generating Units, 77 Fed. Reg. 27392 (Apr. 13, 2012)	EPA victory over industry challenge.
American Road & Transportation Builders Association v. U.S. EPA, 705 F.3d 453 (D.C. Cir. 2013)	Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District, 76 Fed. Reg. 26,609 (May 9, 2011)	EPA victory over industry challenge.
Doe Run Resources Corp. v. U.S. EPA, 528 Fed. Appx. 1 (D.C. Cir. 2013)	National Emissions Standards for Hazardous Air Pollutants for Primary Lead Smelting, 76 Fed. Reg. 70,834 (Nov. 15, 2011)	EPA victory over industry challenge.
Nebraska v. U.S. EPA, No. 4:14-CV-3006, 2014 U.S. Dist. LEXIS 141898 (D. Neb. 2014)	Standards of Performance for Greenhouse Gas Emissions From New Stationary Sources: Electric Utility Generating Units, 79 Fed. Reg. 1,430 (Jan. 8, 2014) (proposed rule)	EPA victory over state challenge to proposed rule.

Table 2: Cases About Rules Promulgated During the Obama Administration that Were Dismissed on Procedural Grounds

<p>In re Murray Energy Corp., No. 14-1112, 2015 WL 3555931 (D.C. Cir. June 9, 2015)</p>	<p>Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, 79 Fed. Reg. 34830 (June 18, 2014) (proposed rule)</p>	<p>EPA victory over state/industry challenge to proposed rule.</p>
<p>Delta Construction Co. v. U.S. EPA, 783 F.3d 1291 (D.C. Cir. 2015)</p>	<p>Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards, 75 Fed. Reg. 25,324 (May 7, 2010); Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles, 76 Fed. Reg. 57,106 (Sept. 15, 2011)</p>	<p>EPA victory over industry challenge.</p>

Table 3: Litigation Challenges to Major EPA Clean Air Act Rules Promulgated Under the Bush Administration and Defended by (or Decided During) the Obama Administration

Table 3: Litigation Challenges to Major EPA Clean Air Act Rules Promulgated Under the Bush Administration and Defended by (or Decided During) the Obama Administration

Litigation	EPA Rule(s)	Outcome of Litigation
American Farm Bureau Federation v. U.S. EPA, 559 F.3d 512 (D.C. Cir. 2009)	National Ambient Air Quality Standards for Particulate Matter, 71 Fed. Reg. 61,144 (Oct. 17, 2006)	Partial victory for EPA over challenges from state governments, industry and environmental groups.
Catawba County v. U.S. EPA, 571 F.3d 20 (D.C. Cir. 2009)	Air Quality Designations and Classifications for the Fine Particles (PM _{2.5}) National Ambient Air Quality Standards, 70 Fed. Reg. 944 (Jan. 5, 2005)	Partial victory for EPA over state and local governments and industry challenges.
Coalition of Battery Recyclers v. U.S. EPA, 604 F.3d 613 (D.C. Cir. 2010)	National Ambient Air Quality Standards for Lead, 73 Fed. Reg. 66,964 (Nov. 12, 2008)	EPA victory over industry challenge.
Mississippi v. U.S. EPA, 744 F.3d 1334 (D.C. Cir. 2013)	National Ambient Air Quality Standards for Ozone, 73 Fed. Reg. 16,436 (Mar. 27, 2008)	Partial victory for EPA over challenges from state government, industry, and environmental groups. The court upheld the primary NAAQS for ozone but remanded the secondary NAAQS.