



+ More

## Energy and Environment

# The Supreme Court could block Obama's climate plans — but it can't stop clean energy

A



Save

My List

By **Chris Mooney** February 10 [Follow chrismoooney](#)



Supreme Court Justice Elena Kagan, from left, Chief Justice John Roberts, Justice Anthony Kennedy, Justice Ruth Bader Ginsburg, Justice Stephen Breyer, and Justice Sonia Sotomayor arrive before President Barack Obama delivers the State of the Union address to a joint session of Congress on Capitol Hill in Washington, Tuesday, Jan. 12, 2016. (AP Photo/Evan Vucci)

Tuesday night, even as votes were being tallied in New Hampshire, the Supreme Court shocked many — including the Obama administration — by putting on hold the president's signature climate policy, the Clean Power Plan, pending resolution of a lawsuit against it by a number of states, utilities and coal companies.

Obama to push for climate funding in Congress



In his weekly address on Saturday, Feb. 6 President Obama said, "The budget I will send to Congress this Tuesday will double funding for clean energy research and development by 2020." (Reuters)

Everybody knew the Clean Power Plan would face major legal challenges, but few thought they'd significantly derail it so early on. One legal expert, the Sierra Club's Bruce Nilles, told the Post it was "unprecedented for the Supreme Court to stay a rule at this point in litigation. They do this in death-penalty cases."

[\*\[Supreme Court freezes Obama plan to limit carbon emissions\]\*](#)

Given litigation timelines, the move suggests that the fate of the plan now may not even be decided until after Obama has left office, in 2017. Moreover, the stay also suggests the Supreme Court's conservative majority looks askance at the plan and sees the challenges against it as serious. This means the next president could now be a major player in setting — or un-making — the nation's climate policy.

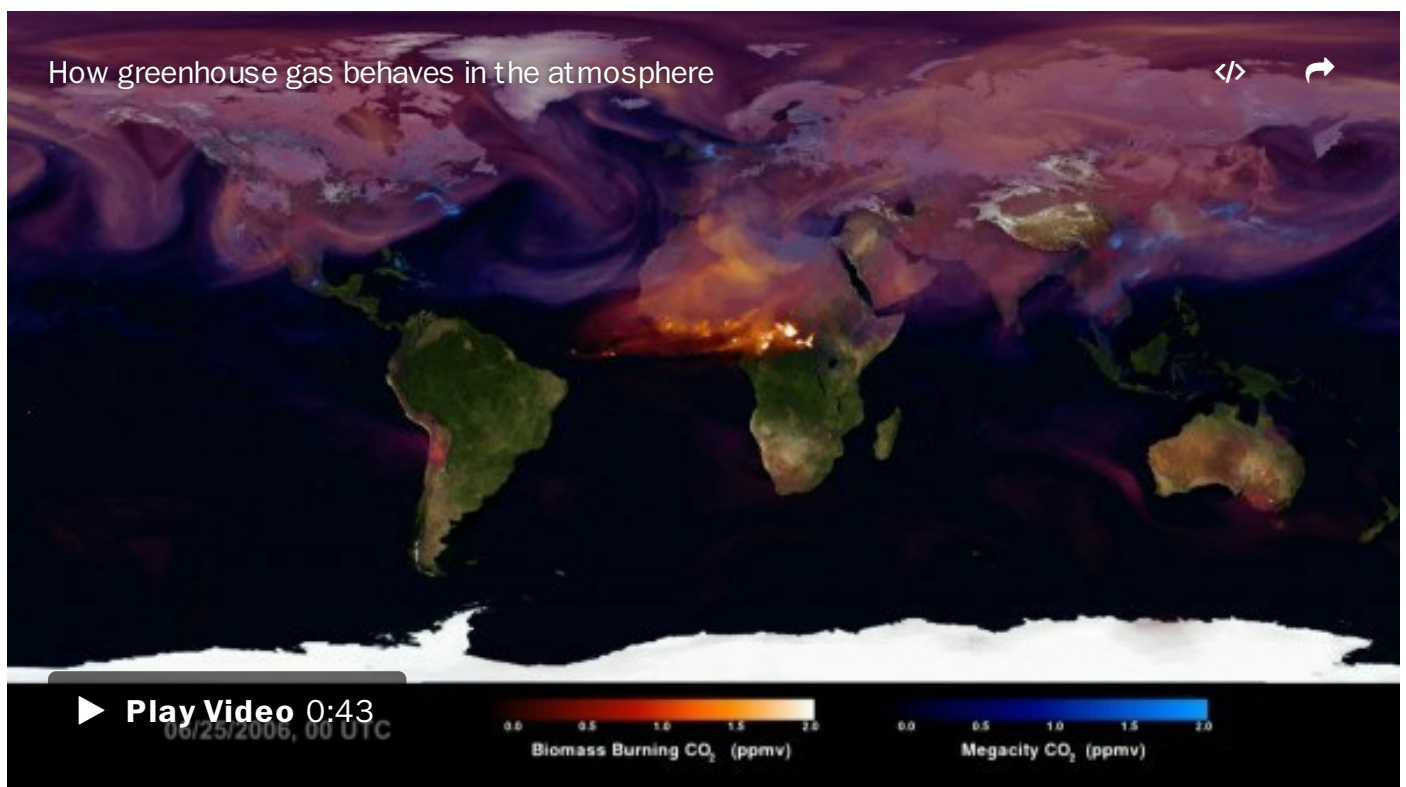
All of this has generated an uproar, and there will be much talk of how it embarrasses Obama on the world stage and undermines the U.S.'s position in the Paris climate negotiations, where the Clean Power Plan was key to demonstrating that as the world's second largest emitter, we're doing our part.

However, there's another side of the story. The fact of the matter is that the Clean Power Plan wasn't set to fully kick in until 2022 — and in the interim, the U.S. has been going through something that looks a lot like the kind of transition it is meant to prompt even without the plan in

place.

Namely: The nation has been slowly decarbonizing its electricity system, through the growth of renewables and the switching from burning coal to burning natural gas.

The same day the Supreme Court stalled the Clean Power Plan, the U.S. Energy Information Administration released its monthly [short term energy outlook](#). Here are some of the punchlines: Electricity from renewables is expected to grow 9.5 percent in 2016. “EIA expects utility-scale solar capacity will increase by about 80% (10 GW) between the end of 2015 and the end of 2017, with 4.1 GW of new capacity being built in California,” the agency adds (GW stands for gigawatt).



This high-resolution animation shows carbon dioxide emitted from fires and megacities over a five day period in June 2006. The model is based on real emission data so that scientists can observe how the greenhouse gas behaves once it has been emitted. (Global Modeling and Assimilation Office, NASA's Goddard Space Flight Center)

Meanwhile, total greenhouse gas emissions from fossil fuel burning actually declined in 2015, by 2.2 percent, the agency estimates. One key reason for this is that coal use [declined 12 percent](#) in the electricity sector, with much more burning of natural gas instead. EIA expects that natural gas in 2016 will, as in 2015, give coal a run for its money in supplying electricity, thanks to quite low prices.

“EIA expects that the share of total generation fueled by natural gas in 2016 will average 32.3%, while coal supplies 33.3% of generation, which is similar to their shares in 2015,” the agency

states.

All of these numbers reinforce a [set of findings](#) from Bloomberg New Energy Finance released last week suggesting the U.S. electricity system went through a “transformative” year in 2015.

*[\[One statistic shows just how dramatically our energy system is changing\]](#)*

It’s a picture of an electricity system in which long-dominant coal is being steadily undermined by other contenders. And yes — there are problems with methane emissions to the atmosphere from natural gas production (witness [Aliso Canyon](#)). But in the long term, carbon dioxide is the greenhouse gas that scientists really worry about, because of its long residence time in the atmosphere.

So the fact is that the country is decarbonizing anyway, and this trend is not likely to stop, no matter what happens with the Clean Power Plan.

Which is not to downplay the significance of regulatory restrictions on carbon dioxide, as opposed to market forces. There’s no guarantee without them that the emissions cuts will happen or that targets are reachable — especially pledges on the international stage.

Still, the point is that the arrow still does point in the same direction, and that’s not something the Supreme Court can change.

And there’s something else to consider. While the White House says it’s [still confident](#) the Clean Power Plan will prevail in court, imagine instead that it doesn’t — that this stay is a preview for an ultimate negative outcome at the Supreme Court. What would happen then?

A little over a year ago, I wrote a [long article](#) about why the EPA regulatory approach to tackling carbon dioxide was, ultimately, deeply polarizing. Obama opted for regulation, rather than

legislation, to fix climate change, which is understandable in light of the failure of cap and trade and the composition of Congress. But it was never an approach likely to generate long-term political consensus.

So instead, I argued that there is really only one policy that both sides can accept in the long run — a carbon tax that is “revenue neutral,” meaning that it returns all the revenue to U.S. citizens in the form of tax breaks or dividends, rather than using it for spending on new government programs. Many conservative economists support taxing carbon — so, indeed, do many fossil fuel companies. And returning the revenue to the public, rather than adding to government coffers, is a supremely conservative approach.

*[The climate debate is brutal and dysfunctional, but there's still a way out]*

As I concluded then:

.....atmospheric physics ultimately forces all hands. The climate problem is real, and it just worsens over time. The science won't go away, the issue won't go away, the world's sense of urgency won't go away — and the politics seem to be shifting in such a way as to make attacking the science of climate change harder to get away with.

So a time may come when the logic of this article makes sense — even if not today. But soon.

That time is still not today. Today, we watch and wait as clean energy slowly advances and litigation over the Clean Power Plan proceeds. And that itself will be a long process.

But in the long run, because the climate issue won't go away, and because of how conservatives

feel about EPA regulatory solutions, a carbon tax remains on the table. It may even be the most likely final resting place for climate policy.

### More at Energy & Environment:

[Why so many economists back Obama's idea of a tax on oil](#)

[Why climate change is really, really unfair](#)

[It's not just Flint: Poor communities across the U.S. live with 'extreme' polluters](#)


For more, you can sign up for our weekly newsletter [here](#), and follow us on Twitter [here](#).



Chris Mooney reports on science and the environment.

### Get the Energy and Environment newsletter

The science and policy of environmental issues, in your inbox weekly.

 153

Comments

### Most Read

**1** Researchers have discovered a much faster way to learn new skills

**2** The crippling thing about growing up poor that stays with you forever

---

**3** The problem with Whole Foods' plans for a new grocery chain

---

**4** The poor are better off when we build more housing for the rich

---

**5** Why Elizabeth Warren thinks legalizing marijuana could help end America's opioid addiction crisis

Unlimited Access to The Post. **Just 99¢**

## Our Online Games

Play right from this page

---



### Mahjongg Dimensions

**Genre(s):** [Strategy](#)

It's 3D Mahjongg- you don't even need to wear 3D glasses!



### The Sunday Crossword by Evan Birnholz

**Genre(s):** [Word](#)

Online crossword.



### Spider Solitaire

**Genre(s):** [Card](#)

Spider Solitaire is known as the king of all solitaire games!



### Daily Crossword

**Genre(s):** [Word](#)

Challenge your crossword skills everyday with a huge variety of puzzles waiting for you to solve.

---

**washingtonpost.com**

© 1996-2016 The Washington Post

[Help and Contact Us](#)

[Terms of Service](#)

[Privacy Policy](#)

[Print Products Terms of Sale](#)

[Digital Products Terms of Sale](#)

[Submissions and Discussion Policy](#)

[RSS Terms of Service](#)

[Ad Choices](#)