

EDF racks up new legal wins against the Trump agenda

By [Joanna Foster](#)



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The administration is scrambling to finalize its reckless anti-environment agenda. But EDF is standing firm, and we're landing win after win in the nation's courtrooms.

CHRISTINA, AGE 9, loves dancing, science class and her pet guinea pig Prince. Nothing holds her back, but she knows that bad air can make her sick and sometimes she needs her nebulizer to breathe. Christina has been treated as an asthmatic since she was just 6. Her mother, Latesha Walker, is deeply involved in their Long Island community, making sure their town is a healthy place for her daughter to grow up. Even as Walker works to organize community cleanups and advocate for pollution control at a local industrial site, she knows these efforts can't stop the dirty and dangerous air that often blows into her hometown from states as far away as Kentucky and Michigan.

A recent MIT study found that around half of premature deaths in the

United States related to poor air quality are due to interstate air pollution. Communities of color are disproportionately affected.

One of the most dangerous forms of interstate pollution is ground-level ozone, or smog. Smog forms when industrial emissions react with heat and sunlight in the air. Nearly 40% of Americans live in areas with unhealthy levels of ozone pollution, which can cause and exacerbate chronic respiratory diseases like asthma. It can scar the lungs and cause premature death and is particularly harmful to children.

Despite the proven, and staggering, public health burden of interstate air pollution, the EPA refused New York's recent request for help reducing smog-forming pollution from out of state. EDF and our allies fought back and won, and the EPA is under court order to consider New York's petition.

New York sought relief under the Good Neighbor provision of the Clean Air Act from the biggest upwind polluters, but the EPA mired the request in red tape.

The District of Columbia Circuit Court agreed with us, saying the EPA "demanded likely unattainable standards of proof."

"The Good Neighbor provision ensures fairness, so that upwind sources of pollution do their part to protect millions of people downwind," said EDF attorney Graham McCahan. "In the current vacuum of national leadership, it's crucial to defend the mechanisms that enable states to forge ahead."

New York's petition, which the EPA must now consider, would broaden the range of interstate pollution sources to which the Good Neighbor provision could apply.

That's good news for people like Walker, who are working to keep their children healthy. "My job as Christina's mom is to keep her safe," she said.

Winning streak

The success in defending against interstate air pollution was just one in a streak of four resounding victories for the environment by EDF and allies in a single week this summer. The others are:

4-0 | legal wins in one week



Our successful defense of an Obama-era rule designed to create an even playing field for energy storage to compete with fossil fuel generators

The decision secures important market access for energy storage — a key step for mobilizing renewable energy.



A victory that upheld California's authority to coordinate with Quebec to cut climate pollution through a linked climate pollution reduction program

California's enforceable climate pollution reduction program has been a model for meaningful bottom-up action on climate change. The program hit its target to reduce greenhouse gas emissions below 1990 levels four years early and has since set a new goal of reducing emissions 40% below 1990 levels by 2030.



A court ruling to vacate the administration's rollback of the 2016 Methane Waste Prevention Rule

This vital rule protects the climate and public health by reducing the waste of methane and other dangerous pollutants from oil and natural gas operations on public and tribal lands. The 2016 rule will prevent roughly 180,000 tons of methane emissions a year, the equivalent over 20 years of taking more than 900,000 cars off the road.

After nearly four years of relentless attacks on health and environmental protections, the administration has failed to complete and successfully defend in court a rollback of any major climate and clean air safeguards.

"These four wins in just seven days reflect the rock-solid legal and factual foundation for the vital health and environmental protections we are defending," said EDF attorney Tomás Carbonell. "From methane standards for oil and gas facilities, to health safeguards for communities affected by interstate air pollution, to pioneering state programs on clean energy and climate change, these protections are essential for the health and well-being of communities nationwide."

In fact, whereas previous administrations typically won about 70% of their

regulatory lawsuits, the Trump administration has lost 85% — and 90% when it comes to environmental suits.

"In case after case, the courts have forcefully rebuked the administration for its refusal to abide by our nation's environmental laws and to provide well-justified, science-based reasons for its actions," said Carbonell. "This administration clearly has no regard for the law, which is why its unprecedented attacks on bedrock environmental protections so frequently fail."

The success of EDF and allies in disrupting and delaying the administration's deregulatory agenda means that many major rollbacks face ongoing litigation, while other rollbacks promoted in the first weeks of the administration are still struggling to be finalized. This is important, as any rule finalized within the last 60 legislative days of a presidential term, is vulnerable to repeal under the Congressional Review Act. A weapon once wielded by Trump to cut down environmental progress could eventually be repurposed to repair and rebuild.

Yet even as the clock ticks down the final days of his first term, Trump continues to escalate his appalling attacks.

In July, the administration announced changes to weaken the Magna Carta of environmental law — the National



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Environmental Policy Act. NEPA was signed into law by President Nixon 50 years ago with huge bipartisan majorities. The act enshrines environmental review and public comment. It gives communities a voice in the planning of pipelines, industrial activities and some power plants and ensures they can protect themselves from dangerous or poorly designed federal projects.

The new changes strike at the heart of NEPA: they fast-track environmental studies, recklessly ignore climate impacts and exempt certain projects from any environmental impact assessment.

Two weeks after the administration's announcement, EDF, Earthjustice and others filed suit.

"For half a century, NEPA has been a foundational tool for communities seeking to have a voice in federal decisions that have a profound impact on their health and well-being," said EDF attorney Rosalie Winn. "The administration's changes threaten the viability of NEPA, making it easier for government to ignore harms from new industrial projects to underserved communities already burdened by pollution. The changes also restrict consideration of less harmful



Latesha Walker protects her community and her daughter, Christina, from air pollution.