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# Why Obama's Supreme Court nomination is good for the climate



**Merrick Garland, Obama's nominee for the Supreme Court**  
Chip Somodevilla/Getty

The battle begins. On Wednesday, President Barack Obama nominated Judge Merrick Garland to the US Supreme Court, the highest court in the nation. Garland is intended to replace Justice Antonin Scalia, who passed away last month.

His record on environmental issues could be good news for supporters of the Clean Power Plan, the proposed rules of the Environmental Protection Agency for greenhouse gas emissions, which were put on hold last month.

An [analysis of Garland's record](#) in 2010 by Tom Goldstein at SCOTUSblog – a blog about the Supreme Court – notes that the judge “has in a number of cases favored contested EPA regulations and actions when challenged by industry, and in other cases he has accepted challenges brought by environmental groups”.

In 2004, Garland wrote an opinion favouring environmental group Sierra Club over the EPA, pushing the agency to meet standards for ozone pollution under the Clean Air Act. Last year, he was on a panel that upheld the agency's right to enforce rules limiting mercury air emissions from power plants.

Garland has also made rulings in support of an open government. In 2013, he ruled in favour of the American Civil Liberties Union, ordering the CIA to release records on overseas drone strikes; and in another case, he supported the right for online media to have fees waived for requests made under the Freedom of Information Act.

## **Other concerns**

It's less clear where Garland stands on other testing issues facing the court this year, such as women's health. Earlier this month, the Supreme Court blocked a Louisiana law requiring abortion doctors to gain membership at a nearby hospital before performing abortions. Next week, it will hear arguments in a case that examines whether religious organisations are required to provide employees with birth control.

Scalia's unexpected absence left the court with just eight justices, who are split evenly between liberal and conservative viewpoints, and changes the maths with regard to this year's upcoming cases. Without a ninth member, any tie will mean that [rulings revert back to lower courts](#). But with a new member, the power balance within the court could shift in a meaningful way.

In the current political climate, Garland is a strategic pick. The Obama administration faces a difficult job getting him – or anyone else – appointed to the court, because Republican members of the Senate Judiciary Committee have pledged to block the nomination process until after the November presidential election.

Garland's conventional background and moderate record make him a less controversial choice than other potential

nominees that have been discussed in the press. Like other sitting justices, he is a Harvard graduate and has spent years in a federal appeals court. Since 2013, he has served as chief judge of the US Court of Appeals for the District of Columbia Circuit.

Could Garland tempt an obstinate Congress? In 2009 and 2010, he was reportedly discussed as a possible nominee, before Obama selected Sonia Sotomayor and Elena Kagan. Back then, Republican Orrin Hatch told Reuters he had “no doubts” that Garland could be confirmed with support from Republicans and Democrats.