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## Supreme Court Reins In Some of EPA's Greenhouse-Gas Efforts

### High Court Trims Environmental Agency's Scope of Greenhouse-Gas Permitting Program

By

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WASHINGTON—The U.S. Supreme Court on Monday ruled the Environmental Protection Agency exceeded its powers in how it used a clean-air permitting program to limit greenhouse-gas emissions, trimming the scope of the agency's permitting effort while still allowing some emissions regulations at larger facilities like power plants.

The court's decision was something of a middle-ground way to resolve a case that had attracted close interest from environmental groups and a wide array of industries. The high court, in an opinion by Justice [Antonin Scalia](#), limited the scope of the EPA permitting effort while still allowing the agency to require greenhouse-gas controls at some large facilities as they modernize or expand.

The case marked the court's first review of the EPA's greenhouse-gas efforts since a landmark 2007 Supreme Court decision allowed the EPA to regulate carbon dioxide and other heat-trapping gases associated with climate change.

In 2009 the agency issued a finding that carbon dioxide and other greenhouse gases are responsible for a warming planet and pose a danger to public health. That conclusion provided the foundation for EPA automobile emissions standards that have been upheld in court and are now in effect.

Monday's case focused on the agency's conclusion that its new automobile rules required it to also pursue enforcement for stationary polluters such as power plants, steel mills and refineries. The EPA drew those facilities into a Clean Air Act permitting program designed originally for smog producing pollutants. The program requires large emitters of certain pollutants to obtain permits when modifying or building new facilities. Those facilities must limit emissions by adopting the "best available" technologies.

Justice Scalia and the court said the EPA couldn't bring emitters into the program solely based on their greenhouse-gas emissions.

"It bears mention that EPA is getting almost everything it wanted in this case," Justice Scalia said from the bench. The ruling allows the agency to regulate 83% of greenhouse-gas emissions, he said, while the regulation the court struck would have raised that percentage to 86%.

"To permit the extra 3%, however, we would have to recognize a power in EPA and other government agencies to revise clear statutory terms," he said, contradicting "the principle that Congress, not the president, makes the law."

Applying the permitting program to greenhouse gases presented a challenge for the agency because carbon dioxide is emitted in much higher quantities than traditional pollutants. In an unusual twist, the EPA ran into legal trouble because it modified a congressionally written program in an attempt to make the effort less onerous on businesses.

Business challengers, however, pressed forward with a legal challenge, expressing concern that the EPA could ratchet up its regulations down the road if it won in court.

Separate from the permitting program at issue in the Supreme Court case, the EPA has proposed regulations under different parts of the Clean Air Act that would restrict emissions from new and existing power plants. The rules, not yet final, are likely to be the subject of later court challenges. Power plants account for about a third of U.S. greenhouse-gas emissions.

—Jess Bravin contributed to this article.

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