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Justices Say E.P.A. Has Power to Act on Harmful Gases

By LINDA GREENHOUSE

WASHINGTON, April 2 — In one of its most important environmental decisions in years, the Supreme Court ruled on Monday that the Environmental Protection Agency has the authority to regulate heat-trapping gases in automobile emissions. The court further ruled that the agency could not sidestep its authority to regulate the greenhouse gases that contribute to global climate change unless it could provide a scientific basis for its refusal.

The 5-to-4 decision was a strong rebuke to the Bush administration, which has maintained that it does not have the right to regulate carbon dioxide and other heat-trapping gases under the Clean Air Act, and that even if it did, it would not use the authority. The ruling does not force the environmental agency to regulate auto emissions, but it would almost certainly face further legal action if it failed to do so.

Writing for the majority, Justice John Paul Stevens said the only way the agency could "avoid taking further action" now was "if it determines that greenhouse gases do not contribute to climate change" or provides a good explanation why it cannot or will not find out whether they do.

Beyond the specific context for this case — so-called "tailpipe emissions" from cars and trucks, which account for about one-fourth of the country's total emissions of heat-trapping gases — the decision is likely to have a broader impact on the debate over government efforts to address global warming.

Court cases around the country had been held up to await the decision in this case. Among them is a challenge to the environmental agency's refusal to regulate carbon dioxide emissions from power plants, now pending in the federal appeals court here. Individual states, led by California, are also moving aggressively into what they have seen as a regulatory vacuum.

Justice Stevens, joined by Justices Anthony M. Kennedy, David H. Souter, Ruth Bader Ginsburg and Stephen G. Breyer, said that by providing nothing more than a "laundry list of reasons not to regulate," the environmental agency had defied the Clean Air Act's "clear statutory command." He said a refusal to regulate could be based only on science and "reasoned justification," adding that while the statute left the central determination to the "judgment" of the agency's administrator, "the use of the word 'judgment' is not a roving license to ignore the statutory text."

The court also decided a second Clean Air Act case Monday, adopting a broad reading of the environmental agency's authority over factories and power plants that add capacity or make renovations that increase emissions of air pollutants. In doing so, the court reopened a federal enforcement effort against the Duke Energy Corporation under the Clean Air Act's "new source review" provision. The vote

in the second case, Environmental Defense v. Duke Energy Corp., No. 05-848, was 9 to 0.

The two decisions left environmental advocates exultant. Many said they still harbored doubts about the federal agency and predicted that the decision would help push the Democratic-controlled Congress to address the issue.

Even in the nine months since the Supreme Court agreed to hear the first case, Massachusetts v. Environmental Protection Agency, No. 05-1120, and accelerating since the elections in November, there has been a growing interest among industry groups in working with environmental organizations on proposals for emissions limits.

Dave McCurdy, president of the Alliance of Automobile Manufacturers, the main industry trade group, said in response to the decision that the alliance "looks forward to working constructively with both Congress and the administration" in addressing the issue. "This decision says that the U.S. Environmental Protection Agency will be part of this process," Mr. McCurdy said.

If the decision sowed widespread claims of victory, it left behind a prominent loser: Chief Justice John G. Roberts Jr., who argued vigorously in a dissenting opinion that the court never should have reached the merits of the case or addressed the question of the agency's legal obligations.

His dissent, which Justices Antonin Scalia, Clarence Thomas and Samuel A. Alito Jr. also signed, focused solely on the issue of legal standing to sue: whether the broad coalition of states, cities and environmental groups that brought the lawsuit against the environmental agency four years ago should have been accepted as plaintiffs in the first place.

This was the issue on which the coalition's lawsuit had appeared most vulnerable, given that in recent years the Supreme Court has steadily raised the barrier to standing, especially in environmental cases. Justice Scalia has long been a leader in that effort, and Chief Justice Roberts made clear that, as his statements and actions in his pre-judicial career indicated, he is fully aboard Justice Scalia's project.

Chief Justice Roberts said the court should not have found that Massachusetts or any of the other plaintiffs had standing. The finding "has caused us to transgress the proper — and properly limited — role of the courts in a democratic society," he said, quoting from a 1984 decision. And, quoting from a decision Justice Scalia wrote in 1992, he said, "This court's standing jurisprudence simply recognizes that redress of grievances of the sort at issue here is the function of Congress and the chief executive, not the federal courts."

Chief Justice Roberts complained that "today's decision recalls the previous high-water mark of diluted standing requirements," a 1973 decision known as the Scrap case. That was an environmental case that the Supreme Court allowed to proceed on a definition of standing so generous as to be all but unthinkable today. "Today's decision is Scrap for a new generation," the chief justice said, not intending the comparison as a compliment.

The majority addressed the standing question by noting that it was only necessary for one of the many

plaintiffs to meet the three-part definition of standing: that it had suffered a “concrete and particularized injury,” that the injury was “fairly traceable to the defendant” and that a favorable decision would be likely to “redress that injury.”

Massachusetts, one of the 12 state plaintiffs, met the test, Justice Stevens said, because it had made a case that global warming was raising the sea level along its coast, presenting the state with a “risk of catastrophic harm” that “would be reduced to some extent” if the government undertook the regulation the state sought.

In addition, Justice Stevens said, Massachusetts was due special deference in its claim to standing because of its status as a sovereign state. This new twist on the court’s standing doctrine may have been an essential tactic in winning the vote of Justice Kennedy, a leader in the court’s federalism revolution of recent years. Justice Stevens, a dissenter from the court’s states’ rights rulings and a master of court strategy, in effect managed to use federalism as a sword rather than a shield.

Following its discussion of standing, the majority made short work of the agency’s threshold argument that the Clean Air Act simply did not authorize it to regulate heat-trapping gases because carbon dioxide and the other gases were not “air pollutants” within the meaning of the law.

“The statutory text forecloses E.P.A.’s reading,” Justice Stevens said, adding that “greenhouse gases fit well within the Clean Air Act’s capacious definition of air pollutant.”

The justices in the majority also indicated that they were persuaded by the existing evidence of the impact of automobile emissions on the environment.

The agency itself “does not dispute the existence of a causal connection between man-made gas emissions and global warming,” Justice Stevens noted, adding that “judged by any standard, U.S. motor-vehicle emissions make a meaningful contribution to greenhouse gas concentrations.”

Justice Scalia wrote a dissenting opinion, signed by the other three dissenters, disputing the majority’s statutory analysis.

The decision overturned a 2005 ruling by the federal appeals court here.