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Energy in the Law

Supreme Court Rebuffs EPA's Expansion of its Permitting Authority but Affirms EPA's Use of BACT to Reduce Greenhouse Gas Emissions

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On Monday, the Supreme Court rejected the Environmental Protection Agency's (EPA) effort to require an emission source to obtain Prevention of Significant Deterioration (PSD) and Title V permits solely because of that source's potential to emit greenhouse gases (GHGs). *See Util. Air Regulatory Grp. v. EPA*, No. 12-1146 (June 23, 2014). The Court found the EPA's interpretation of the Clean Air Act (CAA) to be untenable and in stark contrast to the agency's previous interpretation of the same statutory provisions.

However, the decision did not completely nullify the EPA's current CAA permitting scheme for GHGs. The Court concluded that the EPA may continue requiring emission sources to adhere to the Best Available Control Technology (BACT) emission standards for GHGs. But, the EPA's authority to require BACT for GHGs is limited to those sources that would otherwise need a PSD and Title V permit for the emission of conventional pollutants.

The Court's decision can be found [here](#). If you have any questions please contact [Andrew K. Glenn](#) or [David G. Scott](#).

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