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**Environment & Natural Resources Division**

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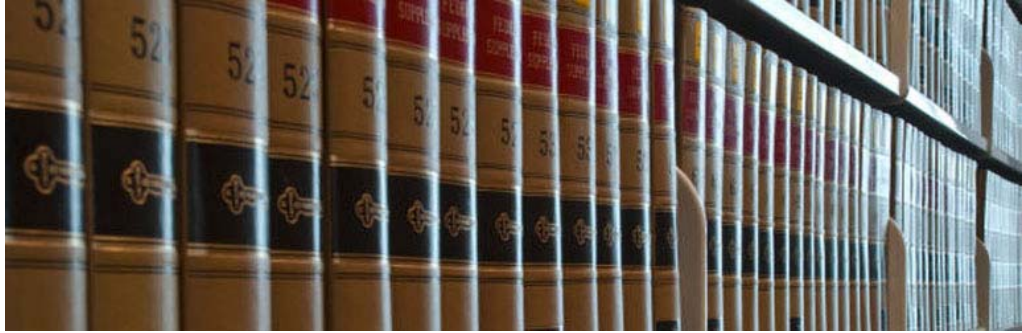
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**MASSACHUSETTS V. ENVIRONMENTAL PROTECTION AGENCY, 549 U.S. 497 (2007)**

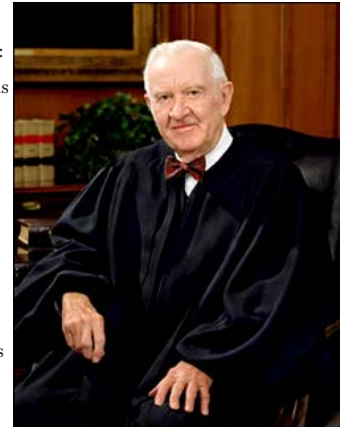


In this case, the Supreme Court found that the Environmental Protection Agency (EPA) can regulate greenhouse gases, such as carbon dioxide, as “air pollutants” under the Clean Air Act. In section 202(a)(1) of the Clean Air Act, Congress stated that EPA is to issue standards applicable to the emission of

“air pollutants” from new motor vehicles, which in EPA’s “judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare . . . .”

In 1999, private organizations filed a petition requesting that EPA issue rules to begin regulating four greenhouse gases, including carbon dioxide, emitted from new motor vehicles. After taking extensive public comment, EPA denied the petition, stating that:

1. it did not have authority under the Clean Air Act to issue mandatory regulations to address global climate change because Congress would have explicitly directed EPA to do so if Congress so intended. As a result, greenhouse gases could not be considered “air pollutants” under the Clean Air Act.
2. even if it did have authority, it would be unwise to set greenhouse gas emission standards at this time because:
  - there was uncertainty regarding the link between greenhouse gases and global warming;
  - mandatory regulation was a piecemeal approach that would interfere with the President’s more comprehensive approach; and
  - it might hamper the President’s ability to persuade developing countries to limit greenhouse gas emissions.



John Paul Stevens. Source: Wikimedia Commons

A panel of the D.C. Circuit denied petitions for review of EPA’s action in a fractured decision. A number of states, local governments, and environmental organizations sought further review in the Supreme Court. The Court first held that Massachusetts had standing to seek review of EPA’s denial of the rulemaking petition in light of the harms global warming could cause that State, including submersion of State-owned property on the coast due to increase in ocean levels.

The Court then held that under the language of the Clean Air Act, EPA has authority to regulate greenhouse gases as “air pollutants.” The Court reversed EPA’s denial of the petition, finding that EPA hadn’t given a reasoned explanation for its refusal to decide whether greenhouse gases cause or contribute to climate change. The Court remanded the matter to EPA, but expressly didn’t reach the question of whether EPA must make a finding that greenhouse gases endanger public health or welfare, or whether policy concerns may inform EPA’s actions in the event that it makes such a finding.

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