

Supreme Court Declines to Stay MATS

MARCH 4, 2016

On March 3, 2016, Chief Justice Roberts denied, without comment, a request from a coalition of 20 states to stay implementation of the Mercury and Air Toxics Standards (MATS) which the D.C. Circuit remanded to EPA on December 15, 2015. The Supreme Court held last year in *Michigan v. EPA* that EPA improperly refused to consider costs in making its appropriate and necessary determination to regulate hazardous air pollutant emissions from power plants. Because EPA did not fulfill this precondition to regulating, the states argued that the D.C. Circuit “thwarted” the Supreme Court’s decision by leaving MATS in effect while on remand.

EPA published its supplemental appropriate and necessary finding in the *Federal Register* on December 1, 2015, and EPA is targeting May 2016 for finalizing its determination. In the meantime, MATS will remain in effect, and a series of cases challenging substantive aspects of the rule, including the startup and shutdown work practice standards, will continue to be held in abeyance while the rule is on remand to EPA.

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