

Supreme Court Rules on Administrative Procedure Act Issue

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On March 9, 2015, the U.S. Supreme Court held that agencies do not need to employ notice-and-comment procedures when modifying interpretive rules. The case, *Perez et al. v. Mortgage Bankers Association*, No. 13-1052, involved a Department of Labor interpretative decision which reversed the Department's stance on whether mortgage loan officers qualify for an exemption under the Fair Labor Standards Act. The decision has implications for all regulating entities, including the EPA.

Section 4(b)(A) of the Administrative Procedure Act (APA) exempts "interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice" from notice-and-comment procedures. A line of cases out of the D.C. Circuit termed the *Paralyzed Veterans* doctrine required agencies to use the notice-and-comment procedure when issuing a new interpretation of a regulation that deviated significantly from one the agency had previously adopted. The Supreme Court invalidated the *Paralyzed Veterans* doctrine, stating that it is contrary to the clear text of the APA, and held that the doctrine improperly imposes on agencies an obligation beyond the maximum procedural requirements.

The decision is considered a victory for regulatory agencies, including the EPA, which routinely and frequently issues interpretive rules and guidance. The decision will provide the EPA with greater flexibility to amend interpretive rules and guidance and could result in expanded regulatory authority.

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Author

Eleni Kouimelis

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