

The Silver Lining for EPA in Supreme Court Climate Ruling

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The Environmental Protection Agency may still have the ability to write meaningful climate regulation, despite the limitations put on the agency's reach by the Supreme Court's recent ruling in *West Virginia v. EPA*.

Jeffrey R. Holmstead, a partner in Bracewell's Washington, DC office who served as EPA air chief under President George W. Bush, told [E&E News](#) that the court didn't foreclose the possibility that EPA could use some form of averaging among fossil fuel plants to deliver greater reductions at lower cost in a subsequent rule.

"The court went out of its way to say it wasn't deciding the issue," said Holmstead.

He noted that EPA could find guidance in a section of the majority that discusses the cap-and-trade program for mercury. The mercury rule sets standards that can be met by individual power plants through trading.

"So you could certainly imagine a trading regime that doesn't run afoul of the Supreme Court's decision," Holmstead said.

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