INSIGHTS + NEWS

Bob Cox Quoted in "Environmental bar deciphers landmark Supreme Court ruling" in Massachusetts Lawyers Weekly

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In its June 30 decision in *West Virginia v. Environmental Protection Agency*, the U.S. Supreme Court set aside the Clean Power Plan (CPP) adopted by the EPA in 2015. The CPP proposed to reduce carbon dioxide emissions from existing coal- and natural-gas-fired power plants through "generation shifting," which involves power plant operators shifting electricity production from higher-pollutant-emitting to lower-emitting fuels.

In its 6-3 ruling, the Supreme Court invalidated the EPA's generation-shifting rule on the basis that it was not authorized by the Clean Air Act. The decision is viewed by some as marking a change of course in the deference federal judges afford rulemaking by the EPA and other federal regulators. Bob Cox spoke with *Massachusetts Lawyers Weekly* about the court's ruling:

> Bob said he could see *West Virginia* having an impact in Massachusetts in terms of the National Pollutant Discharge Elimination System (NPDES) permitting program, which regulates municipal wastewater treatment plants, industrial discharges, and storm water from municipal and industrial sources. He said Massachusetts has not accepted delegation of the NPDES oversight, meaning Massachusetts does not have a state-run program.
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> "Those are EPA-issued permits under the NPDES program," Bob said. "In Massachusetts, there are more than 230 individual NPDES permits, [and] more than half are municipal."
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> Bob fully anticipates litigation over whether the EPA has "clear congressional authority" in accordance with *West Virginia* to impose certain permitting requirements in Massachusetts under the NPDES program.

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