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From: POLITICO Pro Energy Whiteboard
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Subject: Court strikes down EPA limits on HFCs

By Eric Wolff

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A federal court today struck down EPA's attempt to ban a powerful heat-trapping gas under its authority to regulate substances that deplete the ozone layer.

The D.C. Circuit said EPA could not force manufacturers that had replaced ozone-depleting chemicals with hydrofluorocarbons to stop producing them. The Obama administration in 2015 said the high global warming potential of HFCs justified removing them from a list of acceptable replacements for chlorofluorocarbons, which are being phased out to protect the ozone layer in conjunction with the 1992 Montreal Protocol.

The court, in a 2-1 [decision](#), said EPA too broadly interpreted its authority under the Clean Air Act in trying to ban HFC production altogether. However, Judges Janice Rogers Brown and Brett Kavanaugh said EPA could still bar the use of HFCs by companies that had not yet replaced their ozone-destroying coolants and that EPA could still potentially regulate HFCs under the Toxic Substances Control Act.

Judge Robert Wilkins, an Obama appointee, dissented from the decision, saying EPA's interpretation of its authority was reasonable.

The decision is a victory for French chemical manufacturer Arkema and Mexico-based Mexichem, both of whom make HFCs. It's a blow to U.S. manufacturers of coolants who dominate the market in next-generation chemicals that have much lower global heating potential. It also raises questions about the U.S. ability to implement an amendment to the Montreal Protocol that would curtail worldwide use of HFCs.

WHAT'S NEXT: The court remanded the rule back to EPA for reconsideration.

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