

The Supreme Court - October 29, 2021

Today, the Supreme Court of the United States granted certiorari in the following cases:

West Virginia v. EPA, No. 20-1530; **North American Coal Corp. v. EPA**, No. 20-1531; **Westmoreland Mining Holdings v. EPA**, No. 20-1778; **North Dakota v. EPA**, No. 20-1780: In four consolidated cases, the Court agreed to review the scope of the EPA's authority to impose carbon dioxide emission standards under Clean Air Act Section 111(d), 42 U.S.C. §7411(d), a provision governing air emissions from stationary sources of air pollutants, on coal- and gas-fired power plants. The specific questions are: 1) In 42 U.S.C. §7411(d), did Congress constitutionally authorize the EPA to issue significant rules—including those capable of reshaping the nation's electricity grids and unilaterally decarbonizing virtually any sector of the economy—without any limits on what the agency can require so long as it considers cost, nonair impacts, and energy requirements? 2) Whether 42 U.S.C. § 7411(d), which authorizes the EPA to impose standards “for any existing source” based on limits “achievable through the application of the best system of emission reduction” that has been “adequately demonstrated,” grants the EPA authority not only to impose standards based on technology and methods that can be applied at and achieved by that existing source, but also allows the agency to develop industry-wide systems like cap-and-trade regimes. 3) Whether 42 U.S.C. § 7411(d) clearly authorizes EPA to decide such matters of vast economic and political significance as whether and how to restructure the nation's energy system. 4) Can EPA promulgate regulations for existing stationary sources that require States to apply binding nationwide “performance standards” at a generation-sector-wide level, instead of at the individual source level, and can those regulations deprive States of all implementation and decision making power in creating their Section 111(d) plans?

Arizona v. San Francisco, No. 20-1775: Whether States with interests in litigation brought against the United States should be permitted to intervene to defend when the United States ceases to defend.

Related Capabilities

- Appellate
- Environmental
- Energy & Natural Resources

