

**20-1531 NORTH AMERICAN COAL CORP. V. ENVIRONMENTAL PROTECTION AGENCY**

DECISION BELOW: 985 F.3d 914

LOWER COURT CASE NUMBER: 19-1179

QUESTION PRESENTED:

In 2015, the EPA promulgated its "Clean Power Plan," which for the first time imposed carbon dioxide emissions limits on existing coal- and gas-fired power plants. The EPA developed those standards based not on any technology that the plants could themselves apply in their operations, but instead on an industrywide system of "generation shifting"-a cap-and-trade-style regime that effectively required many existing power plants to be shuttered or to scale back while subsidizing renewable energy sources.

This Court stayed that rule even before any lower court had reviewed it. And no court ever did review it, because the EPA soon changed course. It repealed the Clean Power Plan, reasoning that the Clean Air Act authorized it only to promulgate standards based on technology actually applicable to a given existing source-not to devise its own national, systemic solution to greenhouse gas emissions.

Now, in the whiplash-inducing opinion below, the D.C. Circuit has held that this *repeal* was arbitrary and capricious, because the Act supposedly *does* grant the EPA the requisite authority after all.

With that background, the question presented is:

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.

Consolidated with 20-1530, 20-1778, and 20-1780 and a total of one hour is allotted for oral argument

CERT. GRANTED 10/29/2021