

12-1272 CHAMBER OF COMMERCE V. EPA

DECISION BELOW: 684 F.3d 102

LOWER COURT CASE NUMBER: 09-1322, et al.

QUESTION PRESENTED:

The Environmental Protection Agency ("EPA") promulgated a series of four broad-ranging and interconnected rules to control emissions of greenhouse gases. In proposing the last rule in the sequence, EPA acknowledged that it would create a result "so contrary to what Congress had in mind -and that in fact so undermines what Congress attempted to accomplish with the [statute's] requirements -that it should be avoided under the 'absurd results' doctrine." App. 1837a. EPA nonetheless finalized the rule and then, in an attempt to cure the absurdity, rewrote codified limitations in the Clean Air Act.

The questions presented are:

1. Whether, once an agency has identified absurd results produced by its construction of a complex statutory scheme as a whole, the agency may deem the identified absurdity irrelevant to the construction of some individual provisions within the scheme and a justification for rewriting others.

2. Whether EPA's determination that greenhouse gases "may reasonably be anticipated to endanger public health or welfare" and otherwise are regulable under section 202(a)(1) of the Clean Air Act, 42 U.S.C. § 7521(a)(1), was "not in accordance with law" or was "arbitrary, capricious, [and] an abuse of discretion," § 7607(d)(9)(A).

3. Whether EPA incorrectly determined that all "air pollutants" regulated by the agency under the Clean Air Act's motor vehicle emissions provision, 42 U.S.C. § 7421(a)(1), must also be regulated under the Act's Prevention of Significant Deterioration of Air Quality and Title V programs when emitted from stationary sources.

LIMITED TO THE FOLLOWING QUESTION: Whether EPA permissibly determined that its regulation of greenhouse gas emissions from new motor vehicles triggered permitting requirements under the Clean Air Act for stationary sources that emit greenhouse gases.

CONSOLIDATED WITH 12-1146, 12-1248, 12-1254, 12-1268 and 12-1269 FOR ONE HOUR ORAL ARGUMENT.

CERT. GRANTED 10/15/2013