23-1067 OKLAHOMA V. ENVIRONMENTAL PROTECTION AGENCY

DECISION BELOW: 93 F.4th 1262

LOWER COURT CASE NUMBER: 23-9514

QUESTION PRESENTED:

Under the Clean Air Act, each state must adopt an implementation plan to meet national standards, which EPA then reviews for compliance with the Act. *See* 42 U.S.C. § 7410. In 2023, EPA published disapprovals of 21 states' plans implementing national ozone standards. It did so in a single *Federal Register* notice. The Act specifies that "[a] petition for review of the [EPA's] action in approving or promulgating any implementation plan ... or any other final action of the [EPA] under this Act ... which is locally or regionally applicable may be filed only in" the appropriate regional circuit, while "nationally applicable regulations ... may be filed only in" the D.C. Circuit. 42 U.S.C. § 7607(b)(1). Parties from a dozen states sought judicial review of their respective state plan disapprovals in their appropriate regional circuits.

The Fourth, Fifth, Sixth, and Eighth Circuits held that the implementation plan disapprovals of states within those circuits are appropriately challenged in their respective regional courts of appeals. In the decision below, the Tenth Circuit held that challenges to the disapprovals of Oklahoma's and Utah's plans can only be brought in the D.C. Circuit, explicitly disagreeing with the decisions of its sister circuits.

The question presented is:

Whether a final action by EPA taken pursuant to its Clean Air Act authority with respect to a single state or region may be challenged only in the D.C. Circuit because EPA published the action in the same *Federal Register* notice as actions affecting other states or regions and claimed to use a consistent analysis for all states

CONSOLIDATED WITH 23-1068 FOR ONE HOUR ORAL ARGUMENT. JUSTICE ALITO TOOK NO PART.

CERT. GRANTED 10/21/2024