

Message

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Sent: 6/30/2022 2:23:21 PM
To: Smith, Korbin [smith.korbin@epa.gov]
Subject: FW: Supreme Court decision in West Virginia v. EPA re: the Clean Power Plan and the ACE Rule
Attachments: West Virginia v EPA slip op. June 30 2022.pdf

From: Hoffman, Howard <hoffman.howard@epa.gov>
Sent: Thursday, June 30, 2022 10:22 AM
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Subject: Supreme Court decision in West Virginia v. EPA re: the Clean Power Plan and the ACE Rule

The U.S. Supreme Court issued its decision this morning in West Virginia v. EPA, the case that concerned the Clean Power Plan and the ACE Rule, attached.

The Court, in an opinion by Chief Justice Roberts, held that section 111 does not authorize EPA to base a rulemaking on generation-shifting for electricity generating plants, on grounds of the major questions doctrine. The Court declined to address whether EPA has the authority to base section 111 rulemaking on other outside-the-fenceline measures.

Although it clearly indicated that the Clean Power Plan was unlawful, the Court did not reinstate the ACE Rule, and instead remanded it to the D.C. Circuit for further action. Thus, the ACE Rule remains off the books for now.

We intend to send around a short summary later today, and, if warranted, a more detailed summary in the days to come.

At this time, we are sending a similar email to a larger group of staff.

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