

## **20-1780 NORTH DAKOTA V. ENVIRONMENTAL PROTECTION AGENCY**

DECISION BELOW: 985 F.3d 914

LOWER COURT CASE NUMBER: 19-1140, 19-1165, 19-1166, 19-1173, 19-1175, 19-1176, 19-1177, 19-1179, 19-1185, 19-1186, 19-1187, 19-1188

### **QUESTION PRESENTED:**

Section III(d) of the Clean Air Act ("CAA"), 42 U.S.C. § 7411(d), governs air emissions from stationary sources of air pollutants. Section 11 I(d) explicitly requires the U.S. Environmental Protection Agency ("EPA") to develop guidelines for the States to create their own Section III(d) plans to establish "standards of performance" for controlling air emissions from any individual "existing source." Section III(d)(I) further provides that EPA guidelines "shall permit" States, in developing their plans, to "take into consideration, among other factors, the remaining useful life of the existing source to which such standard applies."

The question presented is: 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 III(d) plans?

Consolidated with 20-1530, 20-1531, and 20-1778 and a total of one hour is allotted for oral argument

CERT. GRANTED 10/29/2021