In June 2022, the Supreme Court issued its decision in *West Virginia v. EPA*, which held that, under the “major questions doctrine,” the EPA lacked the authority under the Clean Air Act to devise emissions caps based on the approach of the Obama Administration’s EPA (i.e., by attempting to shift electric generating power from fossil fuels to renewable energy). This ruling effectively torpedoed a significant measure to combat climate change (at least in the absence of Congressional action) and also appears to limit the authority of the EPA and similar regulatory agencies in their future efforts. The implications and consequences of this ruling are still being
assimilated by industry and practitioners, and it is anticipated to have wide-ranging and far-reaching effects on environmental litigation in the future.

Additionally, in the securities context, the SEC has continued its recent focus on climate disclosures and green investing. A number of newly proposed rules, investigations, and enforcement actions have recently been announced to combat allegedly misleading environmental disclosures and the perceived issue of “greenwashing,” in which companies falsely claim that investments or activities are environmentally conscious. This type of litigation activity has been limited to government enforcement actions for the moment, although private securities litigation actions are anticipated that will focus on alleged misstatements and omissions in connection with environmental disclosures.

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National Law Review, Volume XII, Number 221

Source URL: https://www.natlawreview.com/article/energy-sustainability-litigation-updates-august-2022