

In The News

Jason Lichtstein, Michael Larson Examine Biden Administration's Environmental Direction in Light of U.S. Supreme Court Doctrine in *Bloomberg Law* Article

November 27, 2020

Jason Lichtstein and Michael Larson wrote an article for *Bloomberg Law* examining how the Biden Administration's environmental and climate agenda may clash with the U.S. Supreme Court's view of federal administrative agency decisions.

“As President-elect Joe Biden and Vice President-elect Kamala D. Harris plan their administration, it is expected to take aggressive action in a number of federal environmental policy areas, particularly on climate issues. Biden's climate agenda includes a bold pledge to achieve a U.S. goal of 100% clean energy and net-zero emissions no later than 2050.

To get there, major federal legislative and executive branch actions would likely be needed across a wide range of federal programs. The Senate may very well remain in Republican control, placing an obvious limit on the reach of Biden's legislative efforts, even with a Democratic majority in the House.

At the same time, U.S. Supreme Court doctrine in federal administrative law and the court's potential reappraisal of key precedents governing the modern administrative state may constrain the scope of Biden's executive branch moves. In other words,

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Biden's administration may find itself in a classic catch-22."

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