

This week's oral arguments will be carefully parsed for signs of how the Supreme Court will rule about the constitutionality of the Health Care Act. If the Administration wins the case, this will be largely a confirmation that the majority of the Court prefers to follow firmly established existing precedent. If it loses, the outcome will be a signal that the Court has moved into an activist conservative phase, which is probably not a good sign for how it will view environmental issues.

But in terms of legal analysis, the only real questions in the case are whether the Court is willing to carve out exceptions from existing rules for supposedly unprecedented features of the Health Care Act — the so-called individual mandate and the huge amount of funding tied to state participation in the program. Neither of these features is present in any federal environmental law, so far as I'm aware.

So however the Court rules, the ruling will have little or no direct application to environmental law. It will be a significant signal of the Court's mood, but otherwise not very relevant.