The U.S. Supreme Court today denied certiorari in closely-watched cases in which the constitutionality of California's Low Carbon Fuel Standard (LCFS) was being challenged. The LCFS is, in turn, an integral part of the state's multifaceted strategy to reduce California's aggregate greenhouse gas emissions as required under AB 32, the state's landmark 2006 climate change legislation.

As detailed in a recent post, out-of-state energy producers had sued California's Air Resources Board, alleging that the LCFS facially discriminates against interstate commerce and regulates beyond state borders, in violation of Dormant Commerce Clause principles contained in the U.S. Constitution. A federal district judge agreed, but the U.S. Court of Appeals for the Ninth Circuit reversed in an opinion upholding the constitutionality of the LCFS.

The Ninth Circuit's decision is now final, and the facial validity of the LCFS confirmed. The out-of-state energy companies still have the option of pursuing in U.S. district court their back-up contention that the LCFS is unconstitutional as applied to them, though it is uncertain if they will do so.