

We will face some important forks in the road in 2024 in terms of environmental law. Here are some of the upcoming forks.

**Who will be President in 2025?** You probably don't need reminding that 2024 is an election year. At this point, the election seems likely to be a replay of Biden versus Trump. The two couldn't be more different in their views of climate and energy policy.

**Who will control the House?** The 2024 map for the Senate strongly favors the Republicans, so observers generally expect Senate control to flip. This increases the importance of controlling the House, particularly if Trump is elected — because otherwise the Democrats will be completely shut out of the federal government.

**Will the Supreme Court overrule *Chevron*?** The *Chevron* decision gives agencies leeway in interpreting regulatory statutes, which expands the policymaking role of EPA and other government agencies. Anti-regulatory conservatives favored this doctrine in the Reagan days, but not so much since Democrats showed their own ability to make use of this agency discretion. The Court is hearing two related cases that raise the issue of whether *Chevron* should be discarded or sharply limited, transferring power from agencies to judges.

**Will the Republicans roll back the Inflation Reduction Act?** The IRA devoted \$369 billion to clean energy. Republicans have been sniping at the law ever since. I doubt they will eliminate it entirely. Too many businesses and state governments are relying on it. Still, they could cut it back to varying degrees — particularly if they achieve unified control of the federal government.

**What will happen to Biden's big regulatory efforts?** The Biden Administration has issued important regulations to cut carbon emissions and air pollution from trucks and cars. Will the D.C. Circuit uphold them? If so, will the Supreme Court intervene? Another big regulation should be out before summer and will cut emissions from coal- and gas-fired power plants. Will that one be finalized in time to avoid being derailed if the GOP wins in 2024?

**What will happen with mandatory corporate climate disclosures?** New laws in California require companies to disclose their carbon emissions and the risks they face due to climate change. The SEC is considering similar rules that would apply nationwide, and it should be issuing regulations by summer. How far the SEC will try to go is yet to be seen. Will the courts (including the Supreme Court) jump in to block those laws?

**What about the tort suits against oil companies?** The Supreme Court allowed lawsuits

by cities and states against the oil companies to go back to state court. We should start seeing judicial rulings on some key issues – but we don't know yet which ones, how courts will rule, and how quickly those cases will move up through the judicial hierarchy, potentially to the Supreme Court.

All in all, 2024 promises to be an eventful year — not even taking into account any big surprises that may be lurking ahead.