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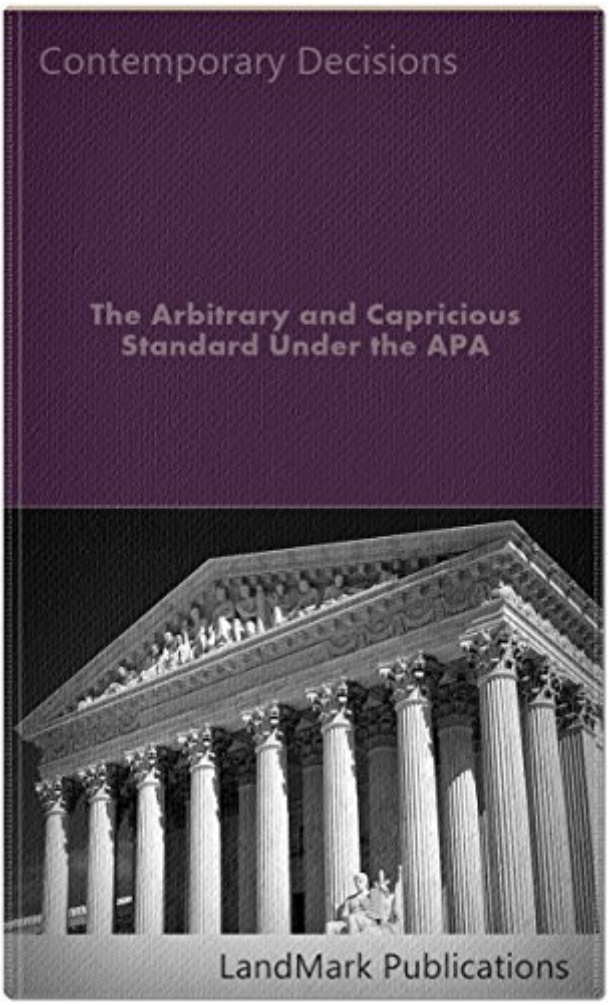
The Arbitrary And Capricious Standard Under The APA (Litigator Series)



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Synopsis

THIS CASEBOOK contains a selection of 225 U. S. Court of Appeals decisions that analyze, interpret and apply the arbitrary and capricious standard under the Administrative Procedure Act. The selection of decisions spans from 2004 to the date of publication.The APA requires a court to "hold unlawful and set aside agency action, findings, and conclusions found to beâ ”arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. Â§ 706(2)(A). Agency action is "arbitrary and capricious if the agency has . . . offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." Motor Vehicle Mfrs. Ass’n of the U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983). Organized Village of Kake v. United States Department of Agriculture, (9th Cir. 2015).Under the APA, a party aggrieved by agency action is generally "entitled to judicial review thereof." 5 U.S.C. Â§ 702; see Conyers v. Rossides, 558 F.3d 137, 143 (2d Cir. 2009) (noting the "strong presumption that Congress intends judicial review of administrative action"). However, review is not available "to the extent that . . . agency action is committed to agency discretion by law." Id. Â§ 701(a)(2). This exception to the availability of judicial review "applies only in those rare instances where statutes are drawn in such broad terms that in a given case there is no law to apply." Sharkey v. Quarantillo, 541 F.3d 75, 91 (2d Cir. 2008) (internal quotation marks omitted). County of Westchester v. U. S. Department of Housing and Urban Development, (2nd Cir. 2015).[Courts] may only set aside [agency] actions if [the agency] acted arbitrarily or capriciously, not in accordance with the law, beyond its jurisdictional authority, or "without observance of procedure required by law." 5 U.S.C. Â§ 706(2)(A), (C), (D). WildEARTH Guardians v. US Fish and Wildlife Service, (10th Cir. 2015).That test is met when an agency fails to consider "the relevant data" or fails to put forth "a rational connection between that data and its decision." WildEarth Guardians v. Nat’l Park Serv., 703 F.3d 1178, 1182-83 (10th Cir. 2013). It is also met when the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983). WildEARTH Guardians v. US Fish and Wildlife Service, ibid.To prevail, an "agency must ’examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made.’" Nat’l Shooting Sports Found., Inc. v. Jones, 716 F.3d 200, 214 (D.C. Cir. 2013) (quoting Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983) (quotation marks omitted)). "To be regarded as rational, an

agency must also consider significant alternatives to the course it ultimately chooses." Allied Local & Reg'l Mfrs. Caucus v. EPA, 215 F.3d 61, 80 (D.C. Cir. 2000). [Courts] will reverse when agency action is "based on speculation," Jones, 716 F.3d at 214, or when the agency did not "engage the arguments raised before it," NorAm Gas Transmission Co. v. FERC, 148 F.3d 1158, 1165 (D.C. Cir. 1998) (quoting K N Energy, Inc. v. FERC, 968 F.2d 1295, 1303 (D.C. Cir. 1992)). Delaware Department of Natural Resources And Environmental Control v. EPA, (DC Cir. 2015).. . .

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