2025
UNVEILING THE MAGIC OF MIDSTREAM INNOVATION
GPA MIDSTREAM CONVENTION

Welcome!

Update on Methane & Other Rules

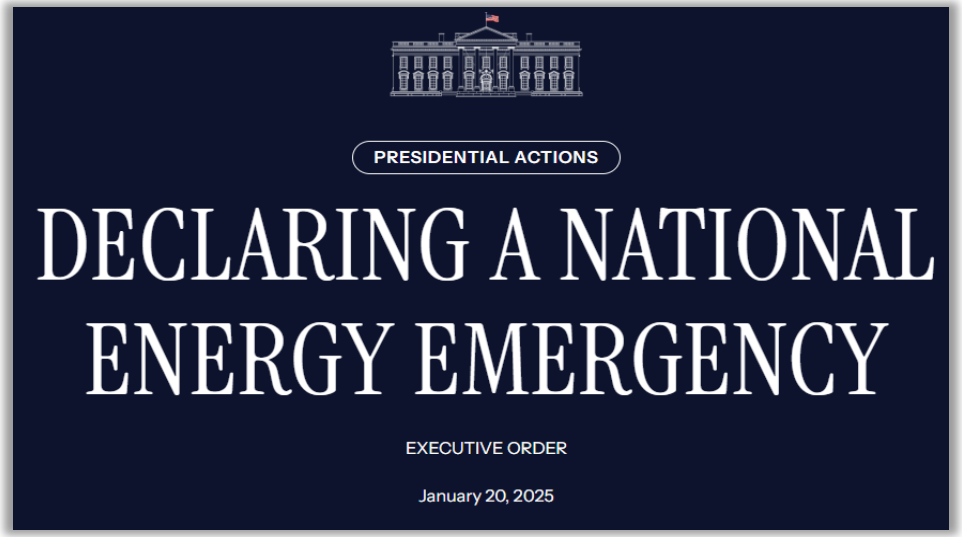
Peter Whitfield, Sidley Austin LLP

Agenda

- Trump 2.0
- Methane Rules
- Other Air Issues
- Permitting (BLM, FWS, etc.)
- National Environmental Policy Act
- Endangered Species Act
- What's Next?

Trump 2.0: What's Ahead in Washington?

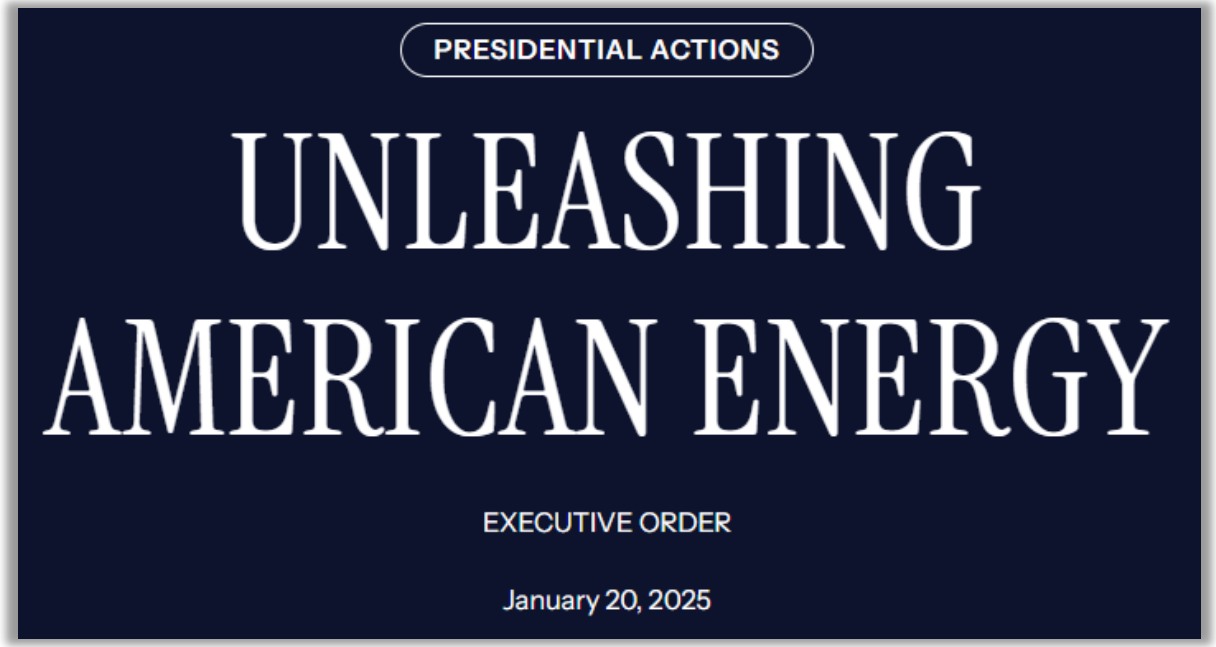
White House



Section 1. Purpose. The energy and critical minerals ("energy") identification, leasing, development, production, transportation, refining, and generation capacity of the United States are all far too inadequate to meet our Nation's needs. We need a reliable, diversified, and affordable supply of energy to drive our Nation's manufacturing, transportation, agriculture, and defense industries . . .

Sec. 2. Emergency Approvals. (a) The heads of executive departments and agencies ("agencies") shall identify and exercise any lawful emergency authorities available to them, as well as all other lawful authorities they may possess, to facilitate the identification, leasing, siting, production, transportation, refining, and generation of domestic energy resources, including, but not limited to, on Federal lands. . .

White House



Sec. 3. Immediate Review of All Agency Actions that Potentially Burden the Development of Domestic Energy Resources. (a) The heads of all agencies shall review all existing regulations, orders, guidance documents, policies, settlements, consent orders, and any other agency actions (collectively, agency actions) to identify those agency actions that impose an undue burden on the identification, development, or use of domestic energy resources . . .

White House

MAKE AMERICA AFFORDABLE AND ENERGY DOMINANT AGAIN

- The President will unleash American energy by ending Biden's policies of climate extremism, streamlining permitting, and reviewing for rescission all regulations that impose undue burdens on energy production and use, including mining and processing of non-fuel minerals.
- President Trump's energy actions empower consumer choice in vehicles, showerheads, toilets, washing machines, lightbulbs and dishwashers.
- President Trump will declare an energy emergency and use all necessary resources to build critical infrastructure.
- President Trump's energy policies will end leasing to massive wind farms that degrade our natural landscapes and fail to serve American energy consumers.
- President Trump will withdraw from the Paris Climate Accord.

Congress

- Delay in methane emissions fee
- Expedited National Environmental Policy Act (NEPA) review
- Phase out Section 45Y and 48E clean energy production and investment tax credits for wind and solar projects
- Decreased royalties on oil and natural gas resources
- "Energy Dominance" grant to Department of Energy loan program
- Etc.

Agency Response

"EPA Launches Biggest Deregulatory Action in U.S. History" (Mar. 12, 2025)

Administrator Zeldin Announces 31 Deregulatory Actions to Power the Great American Comeback:

- Reconsideration of regulations throttling the oil and gas industry (OOOO b/c)
- Reconsideration of mandatory Greenhouse Gas Reporting Program that imposed significant costs on the American energy supply (GHG Reporting Program)
- Reconsideration of Biden-Harris Administration Risk Management Program rule that made America's oil and natural gas refineries and chemical facilities less safe (Risk Management Program Rule)
- Etc.

Agency Response

Commingling of Oil and Gas Production

IM 2025-034

Instruction Memorandum

Bureau of Land Management

National Headquarters

Washington, DC 20240

United States

August 11, 2025

Policy/Action:

The BLM is in the process of updating the commingling regulations at 43 CFR subpart 3173. Because the OBBB establishes commingling requirements, this policy serves as interim guidance to implement the provisions of the OBBB until the commingling regulations are finalized. Specifically, the OBBB directs BLM to consider all commingling applications by stating, in part, "allowing

Methane Rules

Regulatory History

- Obama:
  - 2012 – EPA NSPS for oil/natural gas, VOCs (OOOO)
  - 2016 – EPA NSPS for oil/natural gas + methane (OOOOa)
- Trump 1.0:
  - 2020 – "Technical Rule" and "Policy Rule"
- Biden:
  - July 2021 – "Policy Rule" vacated by CRA
  - Nov. 2021 – Initial Proposed Rule
  - Dec. 2022 – Supplemental Proposed Rule
  - May 2024 – Final Rule (OOOOb/c)

Regulatory History

- Subpart OOOOb
  - New, modified, and reconstructed sources (as of Dec. 6, 2022)
- Subpart OOOOc
  - Emission guidelines for existing sources
  - Follows SIP process / EPA approves / denies issues FIP
  - States have 24 months to submit SIP / up to 36 months to implement
- EPA Estimated Reductions
  - Avoid 58 MM tons of methane emissions 2024 to 2038
  - 80 percent projected reduction

Regulatory History

- Among other trades and industry, states, and environmental NGOs, GPA Midstream filed petition for review and petition for reconsideration
- *State of Texas, et al v. EPA*, No. 24-01054 (consolidated) (D.C. Cir.)
  - Technical issues on requirements for flares, storage tanks, closed vent systems, process controllers, marginal wells
  - Legal challenges to super emitter program, definition of "modification," legality of presumptive standards under 111(d)
- March 2025: EPA announced it is reconsidering OOOOb/c
- Litigation stayed

Regulatory History

Trump EPA Announces OOOO b/c Reconsideration of Biden-Harris Rules Strangling American Energy Producers

March 12, 2025

Contact Information
EPA Press Office (press@epa.gov)

WASHINGTON – U.S. Environmental Protection Agency (EPA) Administrator Lee Zeldin announced the agency is reconsidering Biden-Harris regulations for the oil and gas industry under Section 111 of the Clean Air Act and Subpart W of the Greenhouse Gas Reporting Program.

"Oil and gas standards promulgated by EPA must be rooted in the rule of law, not be used as a weapon to shut down development and manufacturing in the United States. EPA is reconsidering these regulations to ensure they do not prevent America from unleashing energy dominance and continuing our trajectory as a leader in clean energy and emissions reductions. We produce energy better and cleaner than so many other countries around the world, and yet Americans are punished at the end of the day by ideologically driven regulations," ***said EPA Administrator Zeldin.***

This announcement is informed by major recent Supreme Court precedent providing significant guidance to federal agencies as to how they should interpret and implement governing statutes to ensure EPA is following the law of the land.

This was announced in conjunction with a number of historic actions to advance President Trump's Day One executive orders and Power the Great American Comeback. Combined, these announcements represent the greatest and most consequential day of deregulation in the history of the United States. While accomplishing EPA's core mission of protecting the environment, the agency is committed to fulfilling President Trump's promise to unleash American energy, lower costs for Americans, revitalize the American auto industry, restore the rule of law, and give power back to states to make their own decisions.

Extension of Deadlines

- July 2025: EPA issues interim final rule extending certain deadlines in OOOOb/c rule
  - 18 month extensions for flare, leak repair, etc. requirements
  - SuperEmitter program pushed
  - Rationales focus on industry needing additional time, e.g., supply chain and logistical issues raised by reconsideration petitioners
- NGOs filed a petition challenging IFR and motion for summary vacatur
  - *Environmental Defense Fund v. Zeldin*, Case No. 25-1164 (D.C. Cir.) (lead)
  - Trades intervening
  - Comment period of IFR extended to Oct. 1, public hearing held Sept. 2

Other Air Issues

Subpart W

- May 2024: Final rule amending Subpart W of GHG Reporting Rule
- GPA submitted petition for review and petition for reconsideration
- *IPAA v. EPA*, Case No. 24-1242 (D.C. Cir.) (lead)
- Litigation stayed
- March 2025: EPA announced it is reconsidering Subpart W
  - Continued engagement with EPA re: reconsideration

Other

- Reconsideration of Endangerment Finding Ongoing
  - On August 1, EPA published a proposed rule to rescind the 2009 finding that GHGs endanger public health and welfare
  - Directly affects all GHG emission standards issued under CAA § 202 for vehicles and engines from MY 2012–2027 and beyond
- Project Emission Accounting
  - EPA withdrew (effective immediately) its 2024 proposed rule to amend the PSD/NNSR Project Emissions Accounting regulations.
  - NGOs have filed suit against EPA.

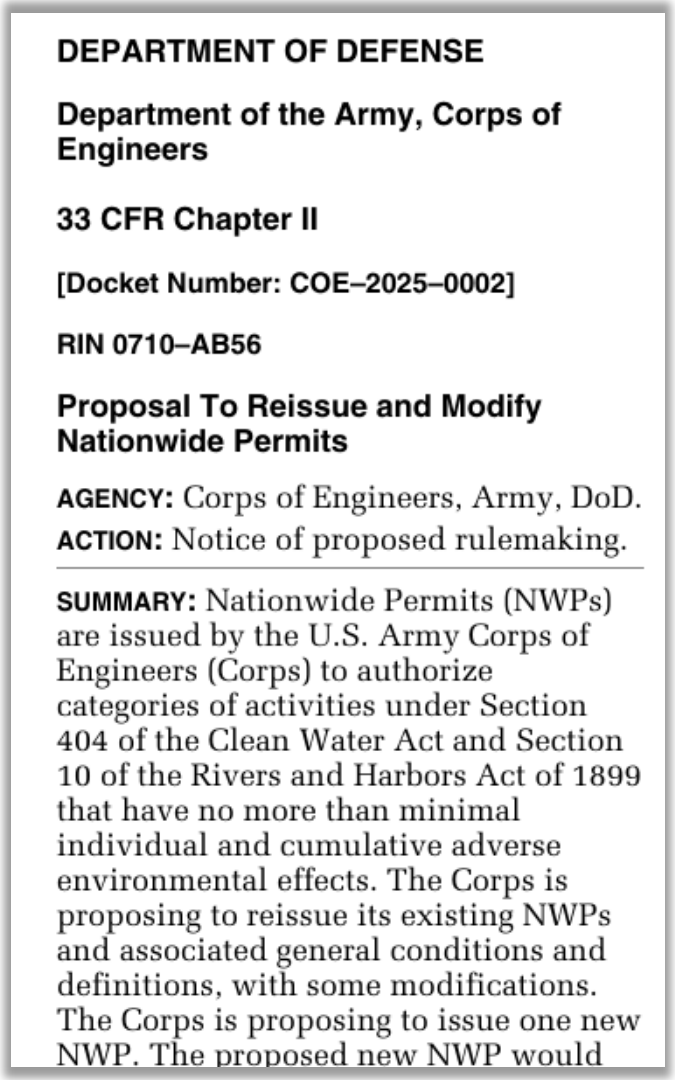
Permitting

National Energy Dominance Council

Sec. 4. Functions. (b) The Council shall:
(i) advise the President on how best to exercise his authority to produce more energy to make America energy dominant;
(ii) advise the President on improving the processes for permitting, production, generation, distribution, regulation, transportation, and export of all forms of American energy, including critical minerals;
etc.

Ongoing Rulemakings

- On June 18, the Corps published a proposed rulemaking to reissue 56 of its existing Nationwide Permits (NWPs), introduce one new NWP, and make targeted modifications to the scope of certain NWPs and their terms.
- E.g.,
  - Proposal to add NWP for fish passage.
  - Proposed revision to GC 11 (Equipment and Matting) which would require the restoration of pre-construction elevations and active soil decompaction following the use of construction mats.
  - Etc.



DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Chapter II

[Docket Number: COE–2025–0002]

RIN 0710–AB56

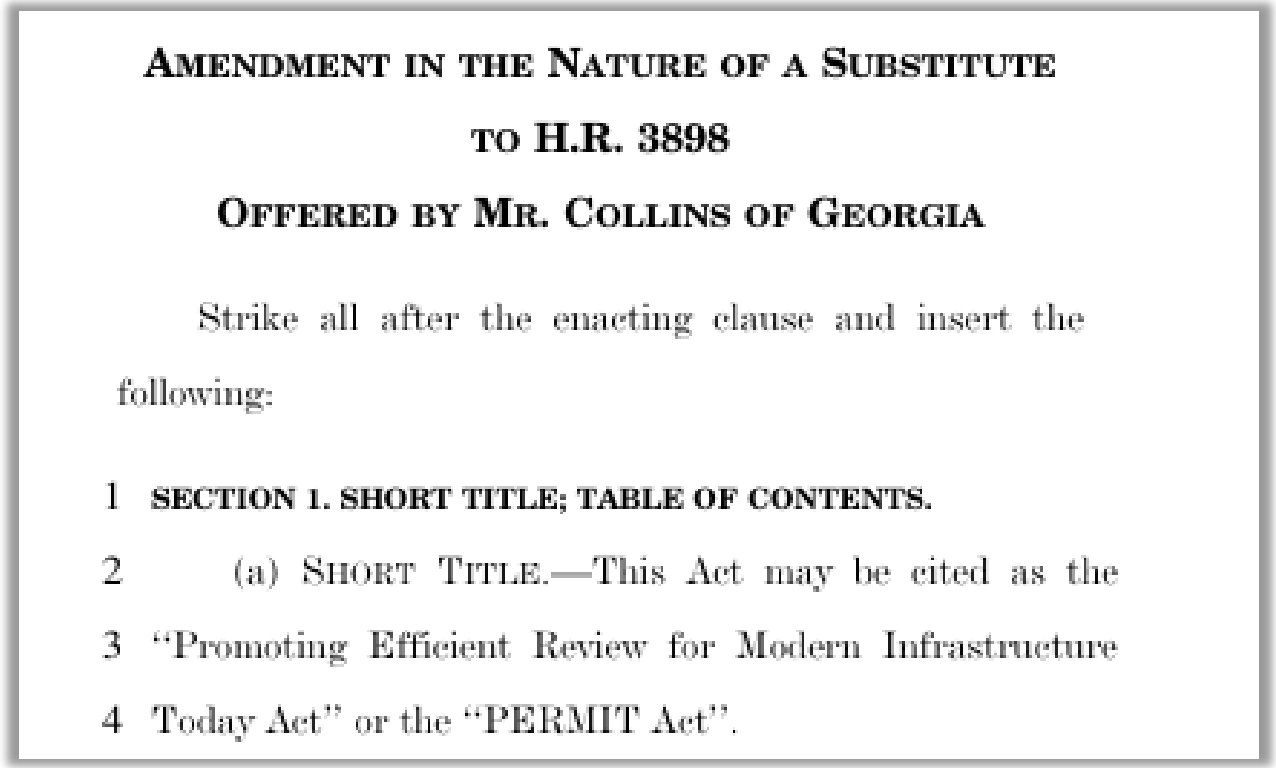
Proposal To Reissue and Modify Nationwide Permits

AGENCY: Corps of Engineers, Army, DoD.

ACTION: Notice of proposed rulemaking.

SUMMARY: Nationwide Permits (NWPs) are issued by the U.S. Army Corps of Engineers (Corps) to authorize categories of activities under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899 that have no more than minimal individual and cumulative adverse environmental effects. The Corps is proposing to reissue its existing NWPs and associated general conditions and definitions, with some modifications. The Corps is proposing to issue one new NWP. The proposed new NWP would

Reform Efforts in Congress



AMENDMENT IN THE NATURE OF A SUBSTITUTE

TO H.R. 3898

OFFERED BY MR. COLLINS OF GEORGIA

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Promoting Efficient Review for Modern Infrastructure Today Act" or the "PERMIT Act".

NEPA

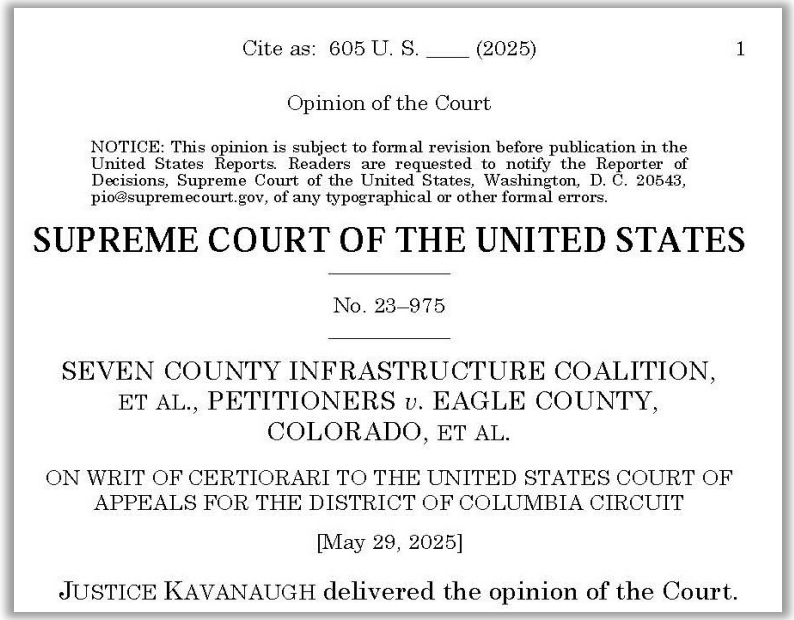
Regulatory Rollback

On Feb. 25, 2025, CEQ published interim final rule, removing its NEPA regulations from the CFR

Why?

- Two court decisions holding that CEQ lacks authority to promulgate binding NEPA rules.
  - First, the D.C. Circuit held in *Marin Audubon Society v. Federal Aviation Administration* that CEQ's NEPA regulations were ultra vires.
  - Second, the District Court for the District of North Dakota, in *Iowa v. Council on Environmental Quality*, vacated the Biden Administration's 2024 Phase 2 NEPA rules in response to a lawsuit brought by twenty-one attorneys general.
- Removal of authority from previous executive order
  - E.O. 14154 rescinded E.O. 11991, *Relating to Protection and Enhancement of Environmental Quality*, which amended E.O. 11514, *Protection and Enhancement of Environmental Quality*, and directed CEQ to promulgate regulations for implementing NEPA and required Federal agencies to comply with those regulations.

Seven County



Cite as: 605 U. S. ____ (2025) 1

Opinion of the Court

NOTICE: This opinion is subject to formal revision before publication in the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, pio@supremecourt.gov, of any typographical or other formal errors.

SUPREME COURT OF THE UNITED STATES

No. 23–975

SEVEN COUNTY INFRASTRUCTURE COALITION, ET AL., PETITIONERS *v.* EAGLE COUNTY, COLORADO, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

[May 29, 2025]

JUSTICE KAVANAUGH delivered the opinion of the Court.

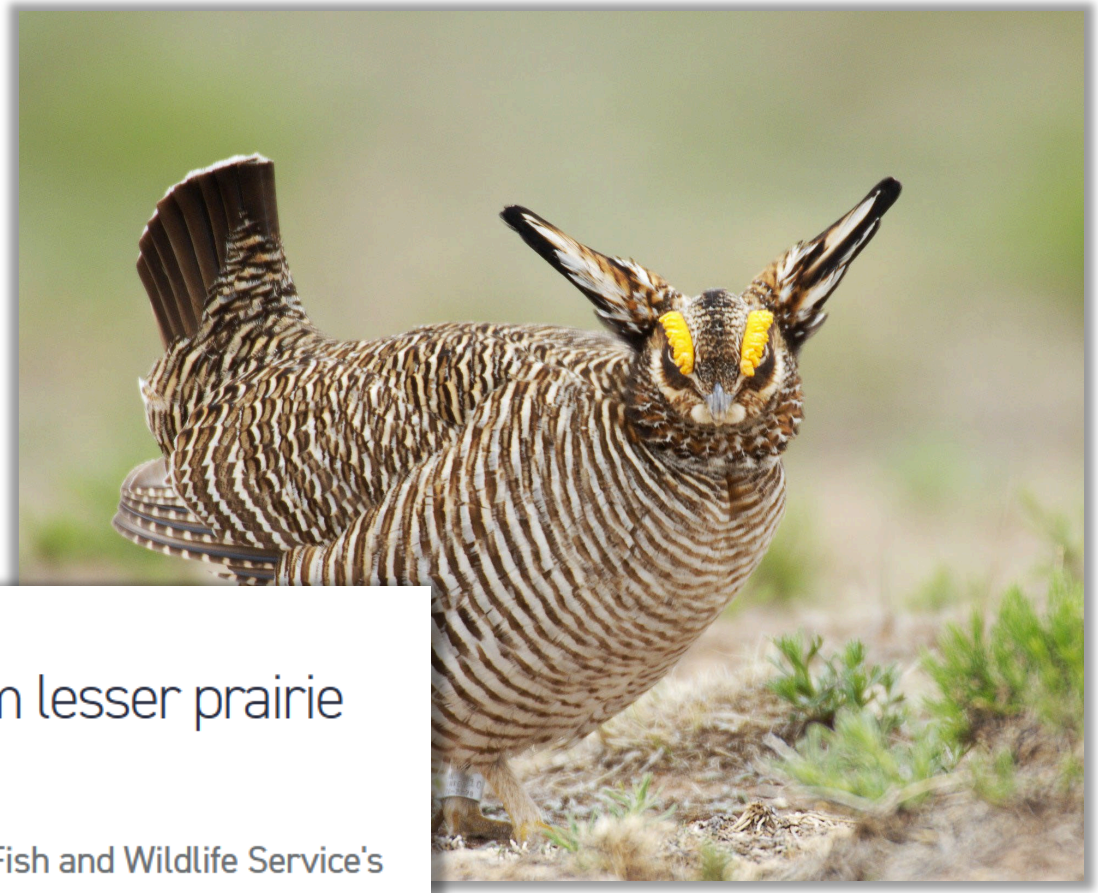
- In *Seven County Infrastructure Coalition v. Eagle County, Colorado*, the Supreme Court held that an agency evaluating a particular project is not required to consider the effects of other future or geographically separate projects that may be built or expanded if the proposed project were approved.
- How will this change agency process?
  - Timing and page limits
  - Freedom to decide “what facts are relevant” to their decision
  - No “potential future projects” or “geographically separate projects”
  - No projects outside the agency’s “regulatory authority”
  - Draw a “manageable line”

CEQ Guidance to Other Agencies

- "Implementation of the National Environmental Policy Act" (Feb. 19, 2025)
  - Expedite and simplify NEPA process
  - Agencies must update NEPA procedures by Feb 2026
  - Encourage project-sponsor prepared reviews
  - Focus only on feasible, purpose-fitting alternatives
  - Define major decision points, CEs, EA/EIS criteria, and public input processes
- Agency Response
  - Since July 2025, most agencies are rescinding existing references to CEQ regulations or those viewed as supplementing the now-rescinded regulations.
  - Agencies otherwise revising regulations to further streamline the NEPA process, increase the use of CEs, and remove any review requirements perceived as beyond the statute, such as environmental justice.
  - Agencies also shifting toward internal guidance, as opposed to regulations.

ESA

ESA Rollbacks



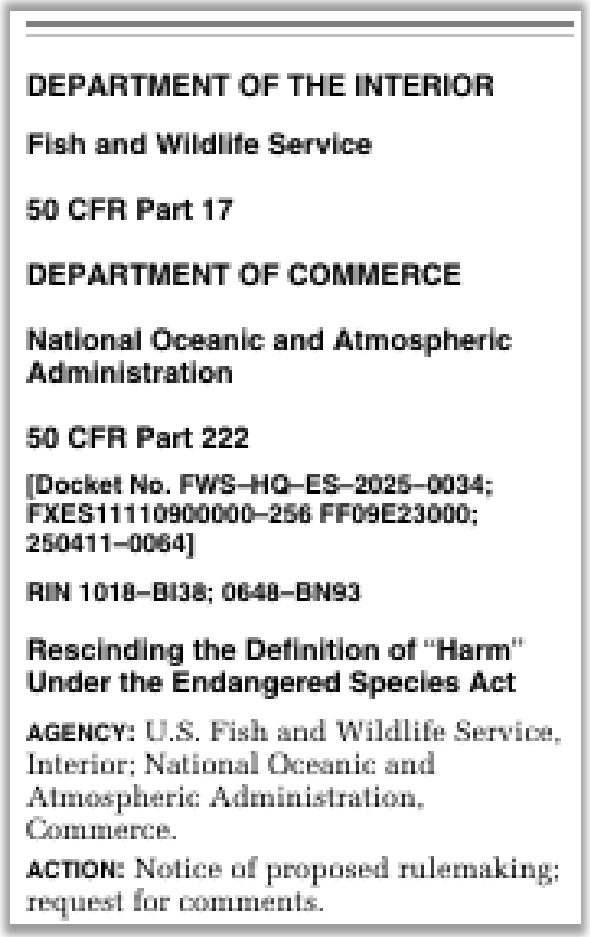
E&E NEWS PM

Texas judge removes ESA protections from lesser prairie chicken

The Trump administration said it found a "serious defect" in the Fish and Wildlife Service's 2022 listing decision for the bird.

BY: **MICHAEL DOYLE, SCOTT STREATER** | 08/13/2025 04:18 PM EDT | UPDATED 08/13/2025 05:40 PM EDT

Ongoing Rulemakings



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

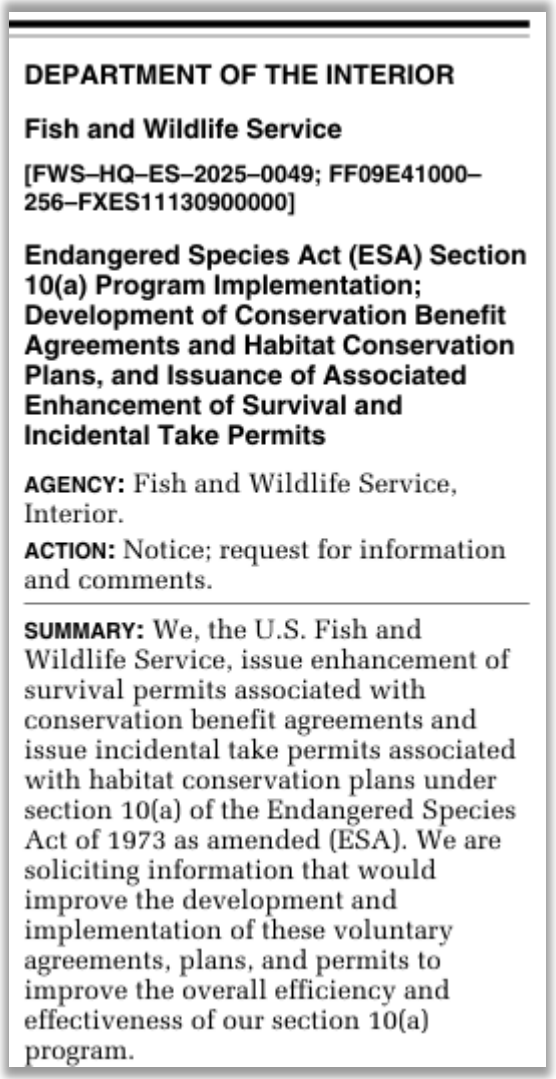
[Docket No. FWS–HQ–ES–2025–0034; FXES11110900000–256 FF09E23000; 250411–0064]

RIN 1018–BI38; 0648–BN93

Rescinding the Definition of "Harm" Under the Endangered Species Act

AGENCY: U.S. Fish and Wildlife Service, Interior; National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of proposed rulemaking; request for comments.



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–ES–2025–0049; FF09E41000–256–FXES11130900000]

Endangered Species Act (ESA) Section 10(a) Program Implementation; Development of Conservation Benefit Agreements and Habitat Conservation Plans, and Issuance of Associated Enhancement of Survival and Incidental Take Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for information and comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, issue enhancement of survival permits associated with conservation benefit agreements and issue incidental take permits associated with habitat conservation plans under section 10(a) of the Endangered Species Act of 1973 as amended (ESA). We are soliciting information that would improve the development and implementation of these voluntary agreements, plans, and permits to improve the overall efficiency and effectiveness of our section 10(a) program.

What’s Next?

Questions?

Thank you!