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# Environmental YIR: 2024 Regulatory Legacies and Impacts

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This report provides an overview of major federal environmental regulations and court decisions of 2024. Landmark U.S. Supreme Court decisions with lasting consequences for environmental policy include *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024),[1] which ended judicial deference to administrative agencies, and *Corner Post v. Federal Reserve*, 603 U.S. 799 (2024), which opened the doors of federal courts to many more plaintiffs challenging regulations. These decisions have subsequently bolstered efforts to limit or rollback regulatory actions, both by industry and by members of the Trump administration. The Congressional Review Act (CRA), which allows Congress to rescind or invalidate new regulations, has also been used as the basis for invalidating many of the environmental regulations adopted since August 2024.

## Major Environmental Regulations of 2024

### *Drinking Water Lead and Copper Rule*

In October 2024, the U.S. Environmental Protection Agency (EPA) finalized amendments to National Primary Drinking Water Regulations for Lead and Copper which, among other things, significantly tightened standards for lead in drinking water by removing the lead trigger level and the level at which action is required to address contamination.[2] The regulation also established a program for identifying and replacing all lead drinking water pipes within 10 years at an estimated cost of $1.47 to $1.95 billion per year, with estimated annual benefits of $13.49 billion to $25.14 billion. The rule has been the subject of two Resolutions of Disapproval under the CRA introduced in the House of Representatives, which will prevent it from going into effect if adopted.[3]

### *Standards and Reporting Requirements related to Per-and Poly-Fluoroalkyl Substances (PFAS)*

Several major milestones identified in the "PFAS Roadmap" first issued in 2021 were achieved in 2024.

EPA issued final National Primary Drinking Water Regulations for six PFAS, including enforceable individual maximum contaminant levels of 4 ng/L for PFOS and PFOA, and 10 ng/L for PFHxS, PFNA, and HFPO-DA, in April 2024.[4] Under the rule, public water systems are required to conduct initial monitoring by 2027 and are expected to make any capital improvements necessary to meet standards by 2029. While no longer subject to revocation under the CRA, given the long implementation period, these standards

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1 Please see here for a prior article discussing this case in greater detail.

2 Federal Register :: National Primary Drinking Water Regulations for Lead and Copper: Improvements (LCRI)

3 Actions - H.J.Res.18 - 119th Congress (2025-2026): Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Environmental Protection Agency relating to "National Primary Drinking Water Regulations for Lead and Copper: Improvements (LCRI)". | Congress.gov | Library of Congress

4 Federal Register :: PFAS National Primary Drinking Water Regulation

may be revised prior to implementation through the standard notice and comment procedure. A challenge to these regulations by water industry groups was held in abeyance through March 2025 to allow review by the new administration.[5]

In May 2024, the EPA designated PFOS and PFOA as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), which authorizes investigation and remediation actions and supports liability claims against potentially responsible parties that have owned or operated facilities where these substances may have been released into the environment.[6] A challenge to this designation by industry groups is currently pending before the U.S. Court of Appeals for the D.C. Circuit, but has been put on hold to allow review by new EPA leadership.[7]

In May 2024, seven PFAS were added to the Toxics Release Inventory (TRI) list of chemicals required to be included in reports due in July 2025 under the Emergency Planning and Community Right-to-Know Act, bringing the total PFAS required to be reported in July 2025 to 196.[8] Because PFAS are designated as chemicals of special concern for the 2024 reporting year, even small amounts of PFAS at a facility will trigger reporting requirements under these new regulations.[9, 10]

### *Safer Communities by Chemical Accident Prevention: Risk Management Program Rule*

On March 11, 2024, EPA adopted a new risk management program under the Toxic Substances Control Act for certain facilities where hazardous substances are used or stored.[11] Changes affect accident prevention program requirements and emergency response requirements for Risk Management Plans, which regulated facilities must submit every five years. Among other things, the rule expanded consideration of "natural hazards," defined to mean "meteorological, environmental, or geological phenomena that have the potential for negative impact, accounting for impacts due to climate change." A challenge to these regulations brought by the AFL-CIO has been held in abeyance at the request of EPA.[12]

### *Conservation and Landscape Health Rule*

The U.S. Bureau of Land Management (BLM) adopted the Conservation and Landscape Health Rule in May 2024, making it easier to designate Areas of Critical Environmental Concern with restrictions on energy activity and other productive uses.[13] The rule adds conservation as a land management priority, revising the agency's "multiple use and sustained yield" framework that aimed to maximize the output of renewable resources without "impairment of the productivity of the land." The new rule directs BLM officers to "adopt national land health standards across all ecosystems that . . . facilitate progress toward meeting land health." The rule also establishes expanded avenues for restoration and mitigation projects, including adoption of new tools for "restoration leases" and "mitigation leases" dedicating land to conservation purposes. Four lawsuits filed by six western states and the Farm

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[5] *American Water Works Association and Association of Metropolitan Water Agencies v. Environmental Protection Agency et al.*, Case No. 24-1188 (D.C. Cir.).

[6] Federal Register :: Designation of Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as CERCLA Hazardous Substances

[7] *Chamber of Commerce of the United States of America, et al., v. U.S. Environmental Protection Agency et al.*, Case No. 24-1193 (D.C. Cir.).

[8] Federal Register :: Implementing Statutory Addition of Certain Per- and Polyfluoroalkyl Substances (PFAS) to the Toxics Release Inventory Beginning With Reporting Year 2024

[9] EPA Designation of PFAS as Chemicals of Special Concern Expands TRI Reporting Requirements for Nearly 200 PFAS | Real Estate, Land Use & Environmental Law Blog

[10] Please see here for a prior article discussing these regulations in greater detail..

[11] Federal Register :: Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Safer Communities by Chemical Accident Prevention

[12] *United Steel, Paper, and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO v. EPA*, Case No. 24-1151 (D.C. Cir. 2024)

[13] Federal Register :: Conservation and Landscape Health

Bureau are being held in abeyance at the request of the United States to allow time for the new administration to review these regulations.[14]

### *Implementation of the Endangered Species Act*

On April 5, 2024, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service finalized two rules revising regulations implementing the Endangered Species Act (ESA).[15] Revisions to ESA Section 7 regulations allow compensatory mitigation obligations to be imposed as part of the mandatory agency consultation process, significantly expanding its scope and potential consequences for projects. Revisions to ESA Section 4 regulations allow the agencies to identify unoccupied habitat that is "essential for the conservation of the species" as critical habitat, departing from the previous sequencing or prioritization approach that required a determination that occupied habitat is inadequate before any designation of unoccupied habitat.[16]

### *Methane Emissions Reduction Program*

The Inflation Reduction Act of 2022 included a three-part program for reducing emissions of methane. The third element of the program is a Waste Emissions Charge (WEC), which was implemented by a final rule published on November 18, 2024.[17] This mandatory charge on large oil and gas facilities was intended to promote methane reductions prior to the full implementation of the final oil and gas rule. The WEC was rescinded by a Joint Resolution of Disapproval on March 14, 2025.[18]

### *Protection of Marine Archeological Resources*

The U.S. Bureau of Ocean Energy Management issued a rule on September 3, 2024, that required an archeological report and inventory of material remains of human life or activities on the sea floor prior to conducting oil and gas exploration.[19] This regulation was rescinded by a Joint Resolution of Disapproval on March 14, 2025.[20]

## 2024 Supreme Court Decisions

### *Loper Bright Enterprises v. Raimondo*

On June 28, 2024, the U.S. Supreme Court issued a landmark decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369. A 6-to-3 majority ruled against the National Marine Fisheries Service in a challenge to regulations requiring commercial fishing vessels to hire observers to ensure compliance with fishing limits. The Court declined to defer to the agency's interpretation of the Magnuson-Stevens Fishery Conservation and Management Act as authorizing the requirement. In so doing, the Court overturned *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984) as inconsistent with *Marbury v. Madison*, in which the Court ruled that it is "emphatically the province and duty of the judicial department to say what the law is." 5 U.S. 137 (1803). Under the new *Loper Bright* standard, federal courts are required to exercise independent judgment to determine the best meaning of statutory language without deference to the agency responsible for enforcement.

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[14] *State of Utah et al. v. Haaland et al.*, Case No. 2:24-cv-438-DBB-DAO; *State of North Dakota, et al. v. Haaland, et al.*, Case No. 1:24-cv-066-DMT-CRH; *State of Alaska, et al. v. Haaland, et al.*, Case No. 1:24-cv-161; *American Farm Bureau Federation, et al. v. U.S. Department of the Interior*, Case No. 1:24-cv0136-ABJ.

[15] Federal Register :: Endangered and Threatened Wildlife and Plants; Regulations for Interagency Cooperation

[16] Federal Register :: Endangered and Threatened Wildlife and Plants; Listing Endangered and Threatened Species and Designating Critical Habitat

[17] Federal Register :: Waste Emissions Charge for Petroleum and Natural Gas Systems: Procedures for Facilitating Compliance, Including Netting and Exemptions

[18] H.J.Res.35 - 119th Congress (2025-2026): Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Environmental Protection Agency relating to "Waste Emissions Charge for Petroleum and Natural Gas Systems: Procedures for Facilitating Compliance, Including Netting and Exemptions". | Congress.gov | Library of Congress

[19] Federal Register :: Protection of Marine Archaeological Resources

[20] S.J.Res.11 - 119th Congress (2025-2026): A joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Bureau of Ocean Energy Management relating to "Protection of Marine Archaeological Resources". | Congress.gov | Library of Congress.

### *Securities and Exchange Commission v. Jarkesy*

With *Securities and Exchange Commission v. Jarkesy*, 603 U.S. 109 (2024), the U.S. Supreme Court constrained agency authority to impose civil penalties in many contexts, particularly where there is a common-law analog to the statute being enforced. The Court held that certain types of administrative actions, including those seeking to impose monetary civil penalties, must be brought in federal court and may trigger the Seventh Amendment right to a jury trial. Upholding a ruling by the Court of Appeals for the Fifth Circuit invalidating a penalty imposed by the SEC based on an in-house proceeding, the Court emphasized that the remedy sought is the most important factor informing the distinction between legal and equitable actions and thus the due process requirements that apply. The Court recognized a "public rights" exception to the right to a jury trial, but cautioned that this exception should be applied narrowly and only to actions that originate with a "newly fashioned" statutory scheme. When claims are based on statutory provisions that resemble suits at common law, then the exception does not apply. *Jarkesy* could make agencies reticent to impose penalties for non-compliance with permitting or other requirements. It also casts doubt on the future of administrative adjudication as a means of resolving disputes related to enforcement actions, and on the authority of administrative law judges.

### *Corner Post v. Board of Governors of the Federal Reserve*

The U.S. Supreme Court held that the Administrative Procedures Act (APA) allows challenges to established regulations long after they have been adopted in *Corner Post v. Board of Governors of the Federal Reserve*, 603 U.S. 799, ruling on a challenge to the SEC's authorization of high credit card transaction fees by a company created in 2018 to operate a truck stop and convenience store. The Court overturned a district court dismissal, holding that the applicable statute of limitations under the APA runs from the time of actionable injury rather than from the adoption of the regulation. New entities, or entities subject affected by a regulation for the first time, now have a 6-year window to object to its application or challenge its validity. This includes both directly-regulated entities and entities that bear an indirect regulatory burden. In a concurrence, Justice Kavanaugh "explained a crucial additional point" that the plaintiff, which was not directly regulated by the rule in question, could only obtain relief through vacatur because it did not have standing to petition for an injunction under the APA. Thus, the decision affirmed the principle that under APA provisions requiring unlawful agency actions to be "set aside" include vacatur in suits brought by parties injured by but not directly subject to agency rules. Although *Corner Post* did not directly address environmental regulations, the Kavanaugh concurrence has already been cited by the Court of Appeals for the Ninth Circuit in a case involving the ESA[21] and by the Court of Appeals for the D.C. Circuit in a case addressing the adequacy of environmental review by the Federal Aviation Administration.[22]

### *Ohio v. EPA*

On June 27, 2024, a five-Justice U.S. Supreme Court majority granted a stay of EPA permit requirements imposed on twelve states found to be out of compliance with the "Good Neighbor Rule" under the Clean Air Act (CAA) in *Ohio et al. v. Environmental Protection Agency et al.*, 603 U.S. 279 (2024). The case reviewed the EPA's 2022 finding that the Implementation Plans (SIP) of twenty-three states failed to control nitrogen oxide emissions sufficiently to avoid contributing to non-attainment in downwind states. EPA developed a Federal Implementation Plan (FIP) with uniform requirements based on an evaluation of all twenty-three states. Although courts granted stays of permit requirements in eleven states, EPA imposed the FIP on the remaining states without any revision. States challenged this action, arguing that EPA failed to properly account for the differing circumstances and cost-effectiveness of pollution control measures in the remaining states specifically. The Court remanded the case to the Court of Appeals for the D.C. Circuit, holding that EPA was unlikely to succeed on the merits because its decision to implement the FIP in twelve noncompliant states without revision was likely arbitrary and capricious.

### *Marin Audubon v. Federal Aviation Administration*

On November 12, 2024, the Court of Appeals for the D.C. Circuit issued *Marin Audubon Society v. Federal Aviation Administration*, 121 F.4th 902 (D.C. Cir. 2024), holding that the Council for Environmental Quality's (CEQ) regulations implementing the National Environmental Policy Act (NEPA) were *ultra vires* (*i.e.*, issued without authority) despite being nearly five decades old. The case centered on the question of whether NEPA review was required for an Air Tour Management Plan regulating commercially-operated tourist flights over four National Parks in California. The FAA and the National Park Service concluded that no Environmental

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[21] *Mont. Wildlife Fed'n v. Haaland* (9th Cir. Jan. 17, 2025).

[22] *Diamond Alternative Energy v. EPA*, 98 F.4th 288 (D.C. Cir) (see discussion below).

Assessment or Environmental Impact Statement was required under NEPA because the plan would maintain existing air tours while adding measures to mitigate impacts on park resources and visitors, resulting in minimal or no environmental impacts. Rather than address this relatively narrow issue, however, the D.C. Circuit vacated the plan and ruled that the regulations upon which it was based were invalid because CEQ lacked the authority to promulgate regulations governing federal agency review. *Marin Audubon* raises questions about the proper role of courts, as well as requirements for NEPA analysis. It also casts doubt on the validity of environmental reviews conducted in accordance with CEQ regulations.[23]

***Significant Environmental Cases Granted a Writ of Certiorari by the U.S. Supreme Court***

The Supreme Court granted a writ of certiorari of *San Francisco v. EPA*, 75 F.4th 1074 (9th Cir.) on May 28, 2024, to review a challenge to EPA's authority to impose limitations on discharges of pollutants to navigable waters under the Clean Water Act (CWA). EPA imported broad statutory language granting the agency authority to adopt limits directly into permit requirements. The Court of Appeals for the Ninth Circuit rejected arguments that the agency needed to develop more specific requirements, pointing out that similar language has been included in most permits issued under the NPDES program since the 1990s. Subsequently, on March 4, 2025, the Supreme Court issued its decision. Citing *Loper Bright*, a five-justice majority ruled against EPA based on an interpretation of the language of the statute, including the definition of the word "limitation."

On October 21, 2024, the Supreme Court agreed to address a circuit split on the proper venue for challenges to EPA's disapproval of twenty-one state implementation plans under the "Good Neighbor Rule" through a single Federal Register notice. Considering *Oklahoma v. Environmental Protection Agency*, 93 F.4th 1262 (Tenth Cir., 2024) and *Pacificorps v. Environmental Protection Agency*, Case No. 23-9512 (Tenth Cir.), the Court will determine whether EPA's action qualifies as "nationally applicable" and therefore may be challenged only in the Court of Appeals for the D.C. Circuit.

On December 13, 2024, the Supreme Court granted a writ of certiorari of *Diamond Alternative Energy v. EPA*, 98 F.4th 288 (D.C. Cir), which rejected an industry-led challenge to the longstanding waiver of federal Clean Air Act emissions standards allowing California to adopt stricter standards in order to address "compelling and extraordinary conditions" related to air quality and, after 2009, in order to reduce global warming. Other states have the option to adopt California standards. The only question before the Court is "whether EPA's preemption waiver for California's greenhouse-gas emissions standards and zero-emission vehicle mandate is unlawful." Oral arguments are scheduled for April 23, 2025.

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[23] Please see here for a prior article discussing this case in greater detail.

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