The Biden Administration's Energy and Environmental Agenda and Potential Sources of Future Litigation

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Legislative Activity: The Biden Administration has announced ambitious goals for changing the country's energy landscape over the next decade. In 2021, the Administration largely pursued these measures through legislation. The primary legislative vehicles were the infrastructure package, budget reconciliation, and the Build Back Better Plan. In April 2021, the Administration announced its intent to pursue legislation requiring electricity suppliers to source 80% of their power from zero-carbon sources by 2030. Additionally, in September 2021, the Office of Energy Efficiency and Renewable Energy released a report stating that solar energy could produce up to 40% of the nation's electricity within 15 years. Reaching this objective would require an increase of ten times the current level of solar output.

On November 15, 2021, President Biden signed into law the $1.2 trillion Infrastructure and Jobs Act. The Act provides $500 million for five clean energy demonstration projects that use technologies such as solar, microgrids, geothermal, direct air capture, storage, and advanced nuclear. As a result, the Department of Energy, in consultation with the Departments of Interior, EPA, and Labor, will solicit proposals for clean project funding. The law also authorizes $7.5 billion over five years to build out a national electric vehicle ("EV") charging infrastructure to accelerate adoption of EVs and reduce air emissions. It also included grant funding for alternative fueling infrastructure for hydrogen, propane, and natural gas vehicles. The law also makes electric and alternative fuel vehicle charging eligible for funding through existing Surface Transportation Block Grant Programs ("STBGP"), and allows for the purchase of zero-emission vehicles in the Congestion Mitigation and Air Quality Improvement Programs. Finally, the law directs the Department of Energy ("DOE") to establish a competitive program to provide $5 billion in financial assistance over four years to demonstrate innovative approaches to transmission, storage, and distribution infrastructure to enhance resilience and reliability.

The Build Back Better Plan—which has faced stiff headwinds in the Senate—includes a $555 billion package of tax credits, grants, and other policies aimed at lowering greenhouse gas emissions. This legislation aims to help the President meet his goal of cutting America's greenhouse gas emissions in half, compared with 2005 levels, by 2030. It remains to be seen what will happen.

Renewable Energy

Department/ Agency	Proposed Rulemaking	Legal Authority Implicated	Further Details	Sources
EPA	**Revised Wastewater Pollution Rule for Coal Power Plants:** In July 2021, EPA announced that it was initiating the rulemaking process to strengthen certain wastewater pollution discharge limits for coal power plants that use steam to generate electricity. EPA has indicated that the proposed rule, which it intends to issue for public comment in the fall of 2022, will impose more stringent protections with the goal of reducing power plant pollution containing toxic metals such as mercury, arsenic, and selenium.	Clean Water Act (33 U.S.C. §§ 1251 et seq.) link. Exec. Order No. 13990, 86 Fed. Reg. 7037-7043 (Jan. 20, 2021), link.	The Trump Administration had previously loosened requirements for certain pollution streams, delayed the implementation of these changes, and exempted some power plants. Additionally, Trump Administration officials indicated that the new rule was expected to save the power sector $140 million annually while also reducing pollution by one million pounds per year compared to the previous rule issued under the Obama Administration.	Rachel Frazin, *EPA Finalizes Rollback of Coal Plant Wastewater Regulations*, The Hill (Aug. 31, 2020), link. Ella Nilsen, *EPA to Impose New Limits on Wastewater Pollution From Coal Power Plants*, CNN (July 26, 2021), link. U.S. Environmental Protection Agency, Notice of Intent to Initiate Rulemaking to Strengthen Certain Wastewater Pollution Discharges for Coal Power Plants That Use Steam to Generate Electricity (July 26, 2021), link.
DOE	**Revised General Service and General Service Incandescent Lamp Definitions:** In August 2021, DOE issued a Notice of Proposed Rulemaking to adopt revised definitions of general	Energy Policy and Conservation Act of 1975 (42 U.S.C. §§ et seq.) link.	In the final days of the Obama Administration, DOE published revised definitions of general service lamp ("GSL"), general service incandescent lamp	U.S. Department of Energy, "Energy Conservation Program: Definitions of General Service Lamps," Proposed Rule, Fed. Reg., Vol.

	service lamps and general service incandescent lamps, which would impose strict energy efficiency standards. This rule will primarily affect manufacturers, importers, distributors, and retailers of general service lamps. Notably, the NOPR does not address whether the energy efficiency standards for GSLs (including GSILs) should themselves be amended, but rather addresses the scope of lamps to be considered in such a determination. The comment period for this rule is set to expire on January 27, 2022.	Exec. Order No. 13990, 86 Fed. Reg. 7037-7043 (Jan. 20, 2021), link.	("GSIL"), and other supplemental definitions, which would have imposed federal efficiency standards on a wide array of lamps. Prior to those new definitions' effective date, the Trump Administration withdrew them. DOE now proposes to return to the revised definitions.	86, No. 158 (Aug. 19, 2021), pp. 46611–46624, link. *Biden Reverses Trump Energy Efficiency Moves for General Service Lamps*, National Law Review (Aug. 18, 2021), link.
BLM/Interior	**Renewable Energy Zones:** In the final week of December 2021, BLM announced its approval of a series of "solar energy zones" in California as part of the Administration's efforts to promote renewable wind and solar power on public lands in order to reduce greenhouse gas emissions. BLM approved the Arica and Victory Pass solar projects in Riverside County, California, which is projected to generate up to 465 megawatts of electricity. Shortly thereafter, BLM called for nominations for land to be developed into "solar energy zones" in Colorado, Nevada, and New Mexico as well.	National Environmental Policy Act (42 U.S.C. §§ 4321 et seq.) link. Exec. Order No. 14008, 86 Fed. Reg. 7625 (Feb. 1, 2021), link.	A renewable energy zone ("REZ") is a geographic area characterized by features that support renewable energy (RE) development, including high-quality RE resources, suitable topography, and strong developer interest. In order to implement a new REZ, the relevant authorities must address legal and regulatory considerations including: local and regional regulations; land titles, acquisition rights, and right-of-way authorizations; land-use restrictions; and the cost allocation of transmission investments.	National Renewable Energy Laboratory, "Renewable Energy Zones: Delivering Clean Power to Meet Demand" (May 2016), link. Matthew Brown, *Biden Administration Approves Expansion of Solar Power on U.S. Land* (Dec. 21, 2021), link.

Current Litigation

Court	Case Overview	Legal Authority Implicated	Background	Case Citation(s)
Supreme Court	On October 29, 2021, the Supreme Court granted certiorari to review a January 2021 ruling by the U.S. Court of Appeals for the D.C. Circuit vacating the Trump Administration's decision repealing the 2015 Clean Power Plan. The D.C. Circuit found that Section 7411 of the Clean Air Act affords EPA broad power in regulating almost any segment of the economy that produces greenhouse gasses, and that the Trump Administration's rule took an impermissibly narrow view of that authority. In the D.C. Circuit's view, Congress did not intend to limit EPA's authority to control greenhouse gas emissions to the imposition of at-the-source measures. In response, petitioners argue that the D.C. Circuit invoked "a rarely used, ancillary provision of the Clean Air Act [to] grant[] an agency unbridled power—functionally 'no limits'—to decide whether and how to decarbonize almost any sector of the economy."	Clean Air Act (42 U.S.C. § 7411(a)-(d)) link.	In October 2015, the Obama Administration finalized the Clean Power Plan ("CPP") rule which established guidelines for states to limit carbon dioxide emissions from power plants by improving the heat-rate efficiency of coal-fired plants and substituting electricity generation away from coal-fired plants. On July 8, 2019, the Trump Administration repealed the CPP and adopted the Affordable Clean Energy ("ACE") rule, which imposed new guidelines focused exclusively on efficiency improvements to individual coal-fired plants. The Biden Administration has indicated that it has no intention of reviving the CPP, and that it plans on releasing a new rule that "takes recent changes in the electricity sector into account."	*Am. Lung Ass'n v. Env't Prot. Agency*, 985 F.3d 914 (D.C. Cir. 2021) link. *West Virginia et al. v. U.S. Env't Prot. Agency et al.*, 142 S. Ct. 420 (2021).

	Oral arguments are scheduled for February 28, 2022 and the Court is expected to issue a decision by the end of June 2022.		This case could impact the rulemaking authority of EPA, in addition to the administrative state as a whole. In particular, the Court will be presented with arguments concerning the breadth of EPA's power to regulate greenhouse gas emissions and the potential limitations on such power under the major questions and nondelegation doctrines.	
9th Circuit	On August 30, 2021, the U.S. District Court for the District of Arizona vacated the Trump Administration's Navigable Waters Protection Rule ("NWPR"), finding "fundamental, substantive flaws that cannot be cured without revising or replacing the NWPR's definition [of Waters of the United States]." The court subsequently remanded the vacated rule to the EPA and the Army Corps. of Engineers for further review. While the Biden Administration announced its intention to revise the NWPR's definition of "waters of the United States" ("WOTUS") to conform with Supreme Court precedent (discussed further below), industry groups within the agricultural and mining sectors are appealing the district court's decision,	Clean Water Act (33 U.S.C. §§ 1251 et seq.) link.	The Clean Water Act ("CWA") does not define "waters of the United States." Instead, the EPA and Army Corps of Engineers are jointly responsible for defining the term, which in turn determines CWA jurisdiction. The NWPR narrows the scope of waterbodies subject to regulation under CWA by, among other things, requiring rivers, streams, and other natural channels to contribute flow directly or indirectly to a territorial sea or traditional navigable water. The Ninth Circuit's decision could impact the scope of agency jurisdiction under the CWA. The court may also face broader	*Pascua Yaqui Tribe v. United States Env't Prot. Agency*, 4:20-cv-00266 (D. Ariz. Aug. 30, 2021) link. *Pasqua Yaqui Tribe et al. v. Arizona Rock Prod. Ass'n et al.*, No. 21-16791 (9th Cir.).

	seeking reversal of the vacatur of the NWPR.		questions concerning the authority of courts to vacate and remand agency rules.	
9th Circuit	On October 21, 2021, the U.S. District Court for the Northern District of California vacated the Trump Administration's 2020 final rule revising the Section 401 permitting process under the CWA and remanded it to EPA for further consideration. The Trump Administration's rule sought to expedite the permitting process by limiting the scope of the criteria states may apply in approving or denying permits. According to the district court, the Trump Administration's rule was "antithetical" to the Supreme Court's decision in *PUD No. 1 of Jefferson County v. Washington Dep't of Ecology*, 511 U.S. 700, 710 (1994), because it limited states' control over the process by failing to account for applicant compliance with state water quality objectives. Instead of leaving the current rule in place while the Biden Administration crafts its revised rule, the district court vacated the rule in its entirety, reasoning that although "[t]he case law here is unsettled…[l]eaving an agency action in place while the agency reconsiders may deny the petitioners the	Clean Water Act (33 U.S.C. §§ 1251 et seq.) link.	Under Section 401 of the Clean Water Act ("CWA"), a federal agency may not issue a permit or license to conduct any activity that may result in any discharge into waters of the United States unless a Section 401 water quality certification is issued or waived by the state wherein the proposed activity is to commence. This affords states wide latitude in reviewing and potentially vetoing projects that do not conform to state clean water objectives. The Section 401 permitting process impacts the licensing of major energy infrastructure projects, including dams and pipelines. The Trump Administration rule sought to expedite the permitting process. Industry groups have expressed concern that more restrictive requirements may cause confusion and uncertainty in the development of future energy infrastructure projects.	*In re Clean Water Act Rulemaking*, 3:20-cv-04636 (N.D. Cal. Oct. 21, 2021) link. *American Rivers et al. v. American Petroleum Institute et al.*, No. 21-16958 (9th Cir.) link.

	opportunity to vindicate their claims in federal court and would leave them subject to a rule they have asserted is invalid." Industry groups including the American Petroleum Institute and states including Texas have filed an appeal of the district court's decision with the Ninth Circuit.			

Potential Sources of Future Litigation

Department/ Agency	Proposed Rulemaking	Legal Authority Implicated	Further Details	Sources
Energy	**Energy Efficiency Standards for Household and Commercial Appliances:** New, and likely more stringent, energy-efficiency standards for household appliances are possible. This includes new standards for refrigerators, freezers, kitchen cooking ranges and ovens, washing machines and dryers, water heaters, light bulbs, ceiling fans, dehumidifiers, mobile homes, dishwashers, microwaves, and furnaces. The DOE is also proposing to review test procedures for these and other appliances (such as televisions, showerheads, and air conditioners) to determine future certification, compliance, and enforcement of standards.	Energy Policy and Conservation Act of 1975 (Pub.L. 94–163, 89 Stat. 871, enacted December 22, 1975).	DOE requested FY 2022 funds to increase employment for appliance-standards development and to support "its contribution to achieving net-zero emissions, economy-wide, by no later than 2050 through its statutory responsibilities associated with appliance standards and assessment of energy savings from model building codes." As with previous versions of these standards under the Obama Administration, the DOE is likely to incorporate the "social cost of carbon" into the estimated benefits of stricter regulations in its regulatory impact analyses.	U.S. Department of Energy, Department of Energy FY 2022 Congressional Budget Request, Vol. 3, Part 1, June 2021, pp. 196 and 456, link.
Interior/BLM /BOEM	**Review of Oil & Gas Leasing Program:** BLM and the Bureau of Ocean Energy Management ("BOEM") immediately cancelled offshore and onshore lease sales following the issuance of President Biden's executive order directing the Secretary of the Interior to pause all oil and gas leases on federal lands and water during the Administration's comprehensive review of oil and gas leasing practices. The executive order also requires DOI to	National Environmental Policy Act (42 U.S.C. §§ 4321 et seq.) link. Exec. Order No. 14008, 86 Fed. Reg. 7625 (Feb. 1, 2021), link.	DOI's review and related regulatory activities are part of the Administration's climate policy to halve greenhouse gas emissions by 2030 and force a transition from conventional energy resources to renewable energy technologies and fuels on federal lands.	News release, "Interior Department Files Court Brief Outlining Next Steps in Leasing Program," U.S. Department of the Interior, August 24, 2021, link. Bureau of Ocean Energy Management, Interior, "Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sale

Department/ Agency	Proposed Rulemaking	Legal Authority Implicated	Further Details	Sources
	reconsider royalty rates from oil and gas production on federal lands "or take other appropriate action, to account for corresponding climate costs." As a result, DOI plans to initiate regulatory actions to adjust oil-leasing and gas-leasing processes, fees, rents, royalties, and bonding requirements on federal lands. BOEM is now revising an environmental impact statement of a lease sale off the coast of Alaska and removed a commitment to review certain permit applications for oil and gas leases in the Gulf of Mexico within 75 days. BLM outlined a process to restart onshore lease sales with new scoping periods, new environmental reviews, and public comment periods.		Even if the Administration does not pursue extensive policy changes, piecemeal efforts in the form of regulatory actions on land-management plans, fees, royalties, bureaucratic requirements for oil and gas companies, and agency processes could amount to a functional moratorium on oil and gas production on federal lands. In June 2021, the U.S. District Court for the Western District of Louisiana issued a nationwide preliminary injunction prohibiting implementation of the leasing pause.	257," Final Notice of Sale, Federal Register, Vol. 86, No. 189 (Oct. 4, 2021), pp. 54728–54734, link. *Louisiana v. Joseph Biden*, U.S. District Court for the Western District of Louisiana, June 15, 2021, link. Office of Information and Regulatory Affairs, "View Rule: Revision of Existing Regulations Pertaining to Fossil Fuel Leases and Leasing Process 43 CFR Parts 3100 and 3400," RIN No, 1004-AE80, Spring 2021, link.
Interior/FWS Commerce/ NOAA	**Endangered Species Act Revisions:** The Biden Administration's Fish and Wildlife Service and National Marine Fisheries Service have announced that they will be rescinding or revising many of these regulations. These proposed actions will likely occur over the next two years. FWS also announced its proposed rule, "Endangered and Threatened Wildlife and Plants; Regulations for Designating	Endangered Species Act, Pub.L. 93-205, 87 Stat. 275, enacted Dec. 28, 1973) link. Exec. Order No. 13990, 86 Fed. Reg. 7037-7043	The Trump Administration had previously finalized new regulations that treated threatened species and endangered species differently, removed disincentives for property owners in helping to promote species conservation, and sought to make more public the costs and benefits of the law.	News release, "Regulation Revisions," U.S. Fish and Wildlife Service, June 4, 2021, link. U.S. Fish and Wildlife Service, Interior, Proposed Rule, "Endangered and Threatened Wildlife and Plants; Regulations for Designating Critical Habitat",

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	Critical Habitat", which would rescind the final rule titled "Endangered and Threatened Wildlife and Plants; Regulations for Designating Critical Habitat" which became effective on January 19, 2021. The rescinded rule had set forth the process for excluding areas of critical habitat under section 4(b)(2) of the Endangered Species Act ("ESA"), which mandates consideration of the impacts of designating critical habitat and permits exclusions of particular areas following a discretionary exclusion analysis. FWS and NOAA also announced a proposed rule, "Endangered and Threatened Wildlife and Plants; Regulations for Listing Endangered and Threatened Species and Designating Critical Habitat," which would rescind the Trump Administration's final rule that defined "habitat" (for the purposes of designating critical habitat only) as "the abiotic and biotic setting that currently or periodically contains the resources and conditions necessary to support one or more life processes of a species."	(Jan. 20, 2021), link. U.S. Fish and Wildlife Service, "Endangered and Threatened Wildlife and Plants; Regulations for Designating Critical Habitat," Final Rule, Fed. Reg. Vol. 85, No. 244 (Dec. 18, 2020) pp. 82376-82388, link. 50 CFR §424 - Endangered and Threatened Wildlife and Plants; Regulations for Listing Endangered and Threatened Species and Designating	The Biden Administration has announced that it will rescind or revise these regulations. An expansive definition of "critical habitat" could impact millions of acres of land by limiting or entirely precluding cultivation by the natural resource industry.	Federal Register, Vol. 86, No. 205 (October 27, 2021), pp. 59346–59353, link. U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration, "Endangered and Threatened Wildlife and Plants; Regulations for Listing Endangered and Threatened Species and Designating Critical Habitat," Proposed Rule, Fed. Reg., Vol. 86, No. 205 (Oct. 27, 2021), pp. 59353–59357, link. Michael Doyle, *Biden Admin. To Uproot Trump 'Critical Habitat' Policies*, E&E News (Oct. 26, 2021), link.

Department/ Agency	Proposed Rulemaking	Legal Authority Implicated	Further Details	Sources
		Critical Habitat, link.		
EPA	**Waters of the United States (WOTUS):** On December 7, 2021, EPA posted a Notice of Proposed Rulemaking defining the scope of waters protected under the CWA. The proposed rule interprets WOTUS by utilizing the two standards articulated in *Rapanos v. United States*, 547 U.S. 715 (2006) to determine what waters are subject to regulation under the CWA. In *Rapanos*, a four-Justice plurality interpreted the term "waters of the United States" as covering "relatively permanent, standing or continuously flowing bodies of water," that are connected to traditional navigable waters, as well as wetlands with a "continuous surface connection" to such water bodies. In his concurring opinion, Justice Kennedy held that "to constitute 'navigable waters' under the Act, a water or wetland must possess a 'significant nexus' to waters that are or were navigable in fact or that could reasonably be so made." Pursuant to Justice Kennedy's line of reasoning, wetlands comprise WOTUS if "either alone or in combination with similarly situated [wet]lands in the region, significantly affect the chemical, physical,	Clean Water Act (33 U.S.C. §§ 1251 et seq.) link. Federal Water Pollution Control Act, Public Law No. 107–303, 107th Cong., November 27, 2002, Sec. 101(b), link. U.S. Army Corps of Engineers and U.S. Environmental Protection Agency, "The Navigable Waters Protection Rule: Definition of	While EPA and Army Corps halted implementation of the Trump Administration's Navigable Waters Protection Rule after an Arizona district court order vacated and remanded the rule, the agencies had already announced they were going to do away with the rule altogether. The Biden Administration's proposed rule differs from the standards set forth both in the now-vacated Navigable Waters Protection Rule ("NWPR"), issued by the Trump administration, and the 2015 Clean Water Rule, issued by the Obama administration. While the Trump Administration's NWPR sought to dramatically scale back waters subject to federal regulation, the Obama Administration's Clean Water Rule sought to use categorical significant nexus determinations in order to establish the boundaries of WOTUS, which expanded federal control over tributaries, adjacent waters, wetlands, and other water bodies.	U.S. Environmental Protection Agency, "Revised Definition of 'Waters of the United States'", link. U.S. Environmental Protection Agency, "Notice of Public Meetings Regarding 'Waters of the United States,'" link. Daren Bakst, *Why Flushing the "Clean Water Rule" Was the Right Thing to Do*, Heritage (Sept. 13, 2019), link. *EPA and Corps Release Updated Definition of the Waters of the United States*, National Law Review (Dec. 3, 2021), link. U.S. Environmental Protection Agency, "2008 Rapanos Guidance and Related Documents Under CWA Section 404", link.

Department/ Agency	Proposed Rulemaking	Legal Authority Implicated	Further Details	Sources
	and biological integrity of other covered waters more readily understood as 'navigable.'" Prior to the Obama and Trump Administration rules, EPA deemed either of these definitions an acceptable standard for determining what waters are subject to regulation under the CWA. The proposed rule appears to reinstate this standard.	'Waters of the United States,'" Final Rule, Federal Register, Vol. 85, No. 77 (Apr. 22, 2020), pp. 22250–22342, link.	The proposed rule will almost certainly provoke a response from state attorneys general, Congress, and private entities. Reliance on the "significant nexus" standard has historically generated uncertainty when it comes to jurisdictional determinations for ditches, intermittent and ephemeral streams, wetlands and other open waters that may be considered adjacent to those ditches or streams.	
EPA	**Section 401 Clean Water Act Certification Changes:** On June 2, 2021, EPA announced its intention to reconsider and revise the Trump Administration's final rule addressing concerns over the Section 401 certification process. In response to the vacatur of the Trump Administration's rule by the U.S. District Court for the Northern District of California, EPA has implemented the previous water quality certification rule that had been in effect since 1971 while it develops a new rule. The 1971 rule affords states more leeway to impose conditions on federal permits for projects that involve discharges to the waters of an affected State.	Clean Water Act (33 U.S.C. §§ 1251 et seq.) link. 40 CFR § 121, State Certification of Activities Requiring a Federal License or Permit, link. Exec. Order No. 13990, 86 Fed. Reg. 7037-7043 (Jan. 20, 2021), link.	On September 11 2020, the Trump Administration finalized a rule to address concerns regarding the Section 401 certification process under the CWA. The rule required, among other things, that states focus on water-quality requirements only, and not use the process to achieve other state objectives, such as addressing climate change. This rule restricted the scope of conditions that states could impose on federal permits under Section 401. Senate Republicans have expressed concern that the Biden Administration will use the Section 401 certification process to resist energy infrastructure	U.S. Environmental Protection Agency, "Clean Water Act Section 401 Certification Rule," July 13, 2020, link. News release, "2020 Clean Water Act Section 401 Certification Rule," U.S. Environmental Protection Agency, October 21, 2021, link. Michael F. McBride and Michael A. Swiger, "U.S. District Court for The Northern District of California Vacates EPA's Clean Water Act Section 401 Certification Rule," National Law Review,

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	EPA anticipates proposing a new CWA Section 401 rule in the Spring of 2022 and issuing a final rule by 2023.		projects, specifically within the oil and natural gas industries.	Vol. XI, No. 298 (October 25, 2021), link. Press Release, Senator Shelley Moore Capito, *Capito, EPW Republicans Bill Would Prevent Liberal States From Misusing Section 401 to Deny Infrastructure Buildout* (Nov. 30, 2021), link.
EPA	**Chlorpyrifos Ban:** In August 2021, EPA issued a final rule prohibiting the use of chlorpyrifos, a pesticide used on soybeans, corn, strawberries, citrus fruits, broccoli and other food products, citing potential health hazards. The new rule, which is set to take effect in February 2022, will cut approximately 90% of chlorpyrifos use in the United States.	Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 346a(b)(1)(A), (b)(2)(A), (d)(4)(A)(i)), link.	The new rule will not be implemented via the standard regulatory process, under which EPA first publishes a draft rule and then takes public comment before publishing a final rule. Instead, the rule will be published in final form, without a draft or public comment period, pursuant to a court order from the Ninth Circuit. In response to a challenge of EPA's prior approval of the pesticide, the Ninth Circuit held that EPA must ban or modify tolerances for chlorpyrifos based on allegations that the chemical is not safe for farm workers and causes developmental harm in children.	*League of United Latin Am. Citizens v. Regan*, 996 F.3d 673 (9th Cir. 2021), link. U.S. Environmental Protection Agency, Pre-Publication Notice of Final Rule re Chlorpyrifos (Aug. 18, 2021), link.