



Virtual Town Hall

November 20, 2024

AGC Environmental Update and 2025 Outlook

Welcome and Introductions

A portrait of Melinda Tomaino, a woman with shoulder-length brown hair, wearing a patterned top. She is smiling slightly and looking towards the camera. The background is slightly blurred, showing what appears to be a bookshelf.

Melinda Tomaino
Senior Director, Environment
and Sustainability

A portrait of John Chambers, a man with short brown hair, wearing a dark blue suit jacket over a light blue shirt. He is smiling and looking towards the camera.

John Chambers
Director, Utility Infrastructure
Division

Construction and the Environment



- National trade association
- Advocate on behalf of member firms
- Support members' efforts to maintain compliance and incorporate environmentally-friendly practices

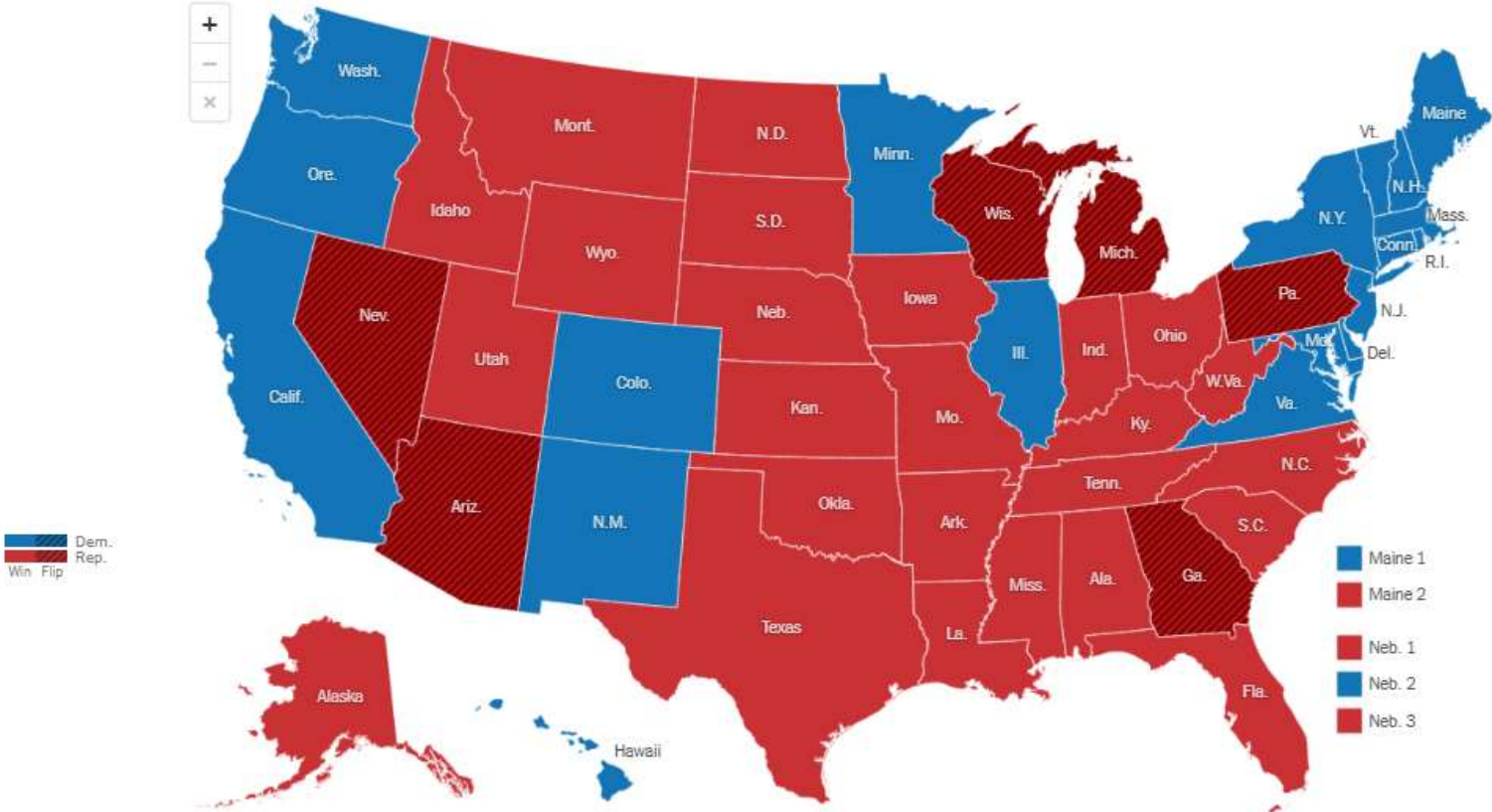
remediation species
WOTUS migratory birds
stormwater SPILLS green standards & codes
contaminants inspections & enforcement equipment emissions
resiliency climate
process water Waste & Recycling
PFAS Air Quality Standards
materials streamlining

Outline



- Election Snapshot
- Federal Agency Staffing
- Environmental Reform Tools
- Overview of Biden Harris Administration Environmental Initiatives
- 2025 Outlook
- AGC Engagement
- Discussion/Q&A

Presidential Election Results



Battleground Margins

- **Arizona:** 5.6% (182,427 votes)
- **Georgia:** 2.2% (116,537 votes)
- **Michigan:** 1.4% (80,618 votes)
- **Nevada:** 3.1% (45,498 votes)
- **North Carolina:** 3.4% (189,311 votes)
- **Pennsylvania:** 1.9% (134,322 votes)
- **Wisconsin:** 0.9% (29,417 votes)

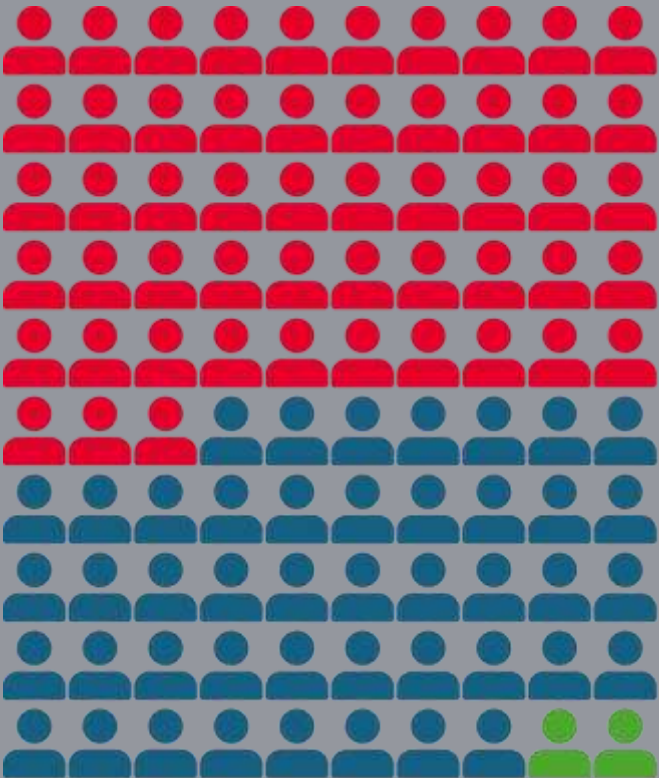
Source: [New York Times](#)

Balance of Power in the Senate

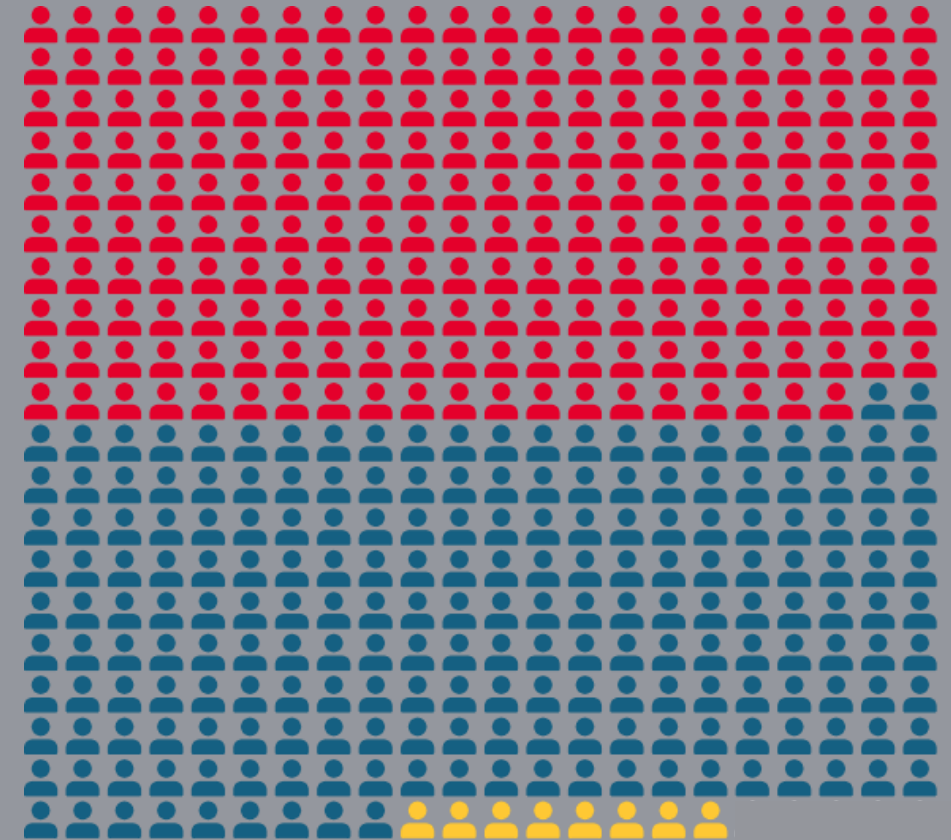


REPUBLICANS	53
DEMOCRATS	45
INDEPENDENTS*	2

* Caucuses with Democrats



51 seats needed for a majority



71

Federal Agency Staffing



- Lee Zeldin - U.S. Environmental Protection Agency
 - Former Representative NY, formerly in US Army, attorney
- Chris Wright - U.S. Department of Energy
 - CEO, Liberty Energy
- Doug Burgum - U.S. Department of Interior
 - North Dakota Governor, formerly with Microsoft



Tools for Regulatory Reform



- **Executive Orders, Policy and Guidance**
 - Issue new
 - Rescind old
- **Proposed and Midnight Regs**
 - Move forward?
 - Withdraw proposed rule?
 - Die on the vine?
- **Final Rules**
 - Congressional Review Act?
 - Rescind Rule
- **Litigation Efforts**
 - Withdraw or revise litigation position?
 - Defend the regulation



Biden-Harris Administration - Regulatory Actions



Army Corps of Engineers

- Ordinary High Water Mark Manual
- Nationwide Permits
- Historic Preservation Requirements
- Tribal Consultation Policy

Environmental Protection Agency

- Waters of the US (WOTUS) with the Corps
 - Field Memos
- State water quality certification
- CWA 404(g) State/Tribal Assumption
- PFAS treated as Superfund hazardous substance
- Development/standardization of EPDs
- Fuel economy standards
- PM2.5 NAAQS – released ahead of schedule



- Market-Based Approaches under NPDES permits – coming
- PFAS in NPDES - coming

Department of Interior

- Roll back of Trump Administration reforms/streamlining ESA
 - New mitigation requirements
- MBTA Incidental Take policy changes
- MBTA take permit - coming

Council on Environmental Quality

- Roll back Trump Administration reforms to streamline NEPA
- Guide on factoring GHG emissions in NEPA process

Securities & Exchange Commission

- GHG emissions reporting mandate (on hold)

U.S. Department of Transportation

- GHG performance measures (on hold)
- Buy Clean & EPDs

Office of Management & Budget

- Social cost of carbon in reg, permit & policy

Federal Acquisition Regulation Council

- GHG/climate financial risk disclosure - coming
- Social cost of carbon in procurement
- Sustainable procurement

Biden-Harris Administration – Litigation



Army Corps of Engineers

- Ordinary High Water Mark Manual
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- **Waters of the US (WOTUS) with the Corps**
 - Field Memos
- State water quality certification
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- Market-Based Approaches under



NPDES permits – coming

- PFAS in NPDES – coming
- **NPDES – vague permit terms**

Department of Interior

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Waters of the United States



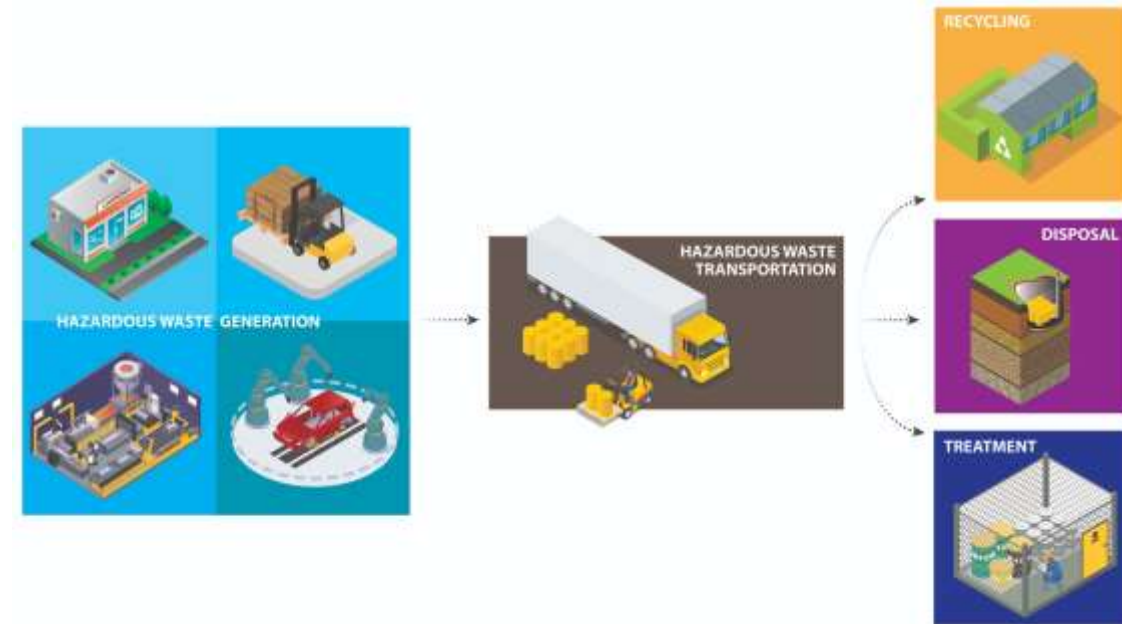
- **“Conforming WOTUS rule” in effect:** In response to SCOTUS majority opinion in Sackett v. EPA case that struck down certain parts of Biden’s 2023 rule
 - [Amendments](#) strike significant nexus test / limit fed controlled wetlands
 - AGC-backed lawsuits had already blocked 2023 rule in [27 states](#)
- **AGC Position--OPPOSE:** Surgical revisions; concerns over clarity, SCOTUS compliance
- **AGC Action:** Comment letters, mtgs w/ White House + regulators, Action Alert (support Congressional disapproval), coalition, amicus brief in SCOTUS case, litigation in fed court
- **Outlook:** Regional Implementation
 - “Conforming rule” in 23 states, DC & territories only, due to ongoing litigation
 - In 27 other states, WOTUS interpretation aligns with pre-2015 regs and Sackett decision
 - Vague/ambiguous terms: “relatively permanent” and “continuous surface connection”
 - AGC litigation; New filings in response to Loper-Bright decision (Chevron)

PFAS: The New Asbestos



PROTECT CONTRACTORS FROM PFAS SUPERFUND LIABILITY

- New rule addresses **PFOA** and **PFOS** under the Superfund law (or CERCLA).
 - This could lead to costly litigation and stricter waste disposal practices.
- AGC joins lawsuit.
- Congress should **protect contractors from frivolous lawsuits.**



2025 Outlook



- Regulatory Reform
- Infrastructure
- Permitting Reform
- PFAS
- PVC
- Climate/Energy

Regulatory Reform



- 2023 totals
- EPA is #1 with most expensive final rule costs (\$70.6b)
 - finalized (3/10)
 - proposed (6/10)
- Proposed rules: \$616b and 191 million hours

Source: [American Action Forum](#)

Status of Infrastructure \$\$\$



- **Infrastructure Investment and Jobs Act** **SAFE**
 - 15/19 Republican Senators remain in the Senate
 - Some transit and rail funding subject to future appropriations
 - Appropriators have fully funded and provided supplemental appropriations
- **CHIPS and Sciences Act** **SAFE**
 - 12/17 Republican Senators remain in the Senate
- **Inflation Reduction Act** **PARTIAL DANGER**
 - Passed on party lines
 - Agencies working to obligate or award the available funds (e.g., EPA has obligated ~80% as of late Oct.)



Permitting Reform Update

BIDEN-HARRIS WHITE HOUSE EFFORT IGNORES REFORMS

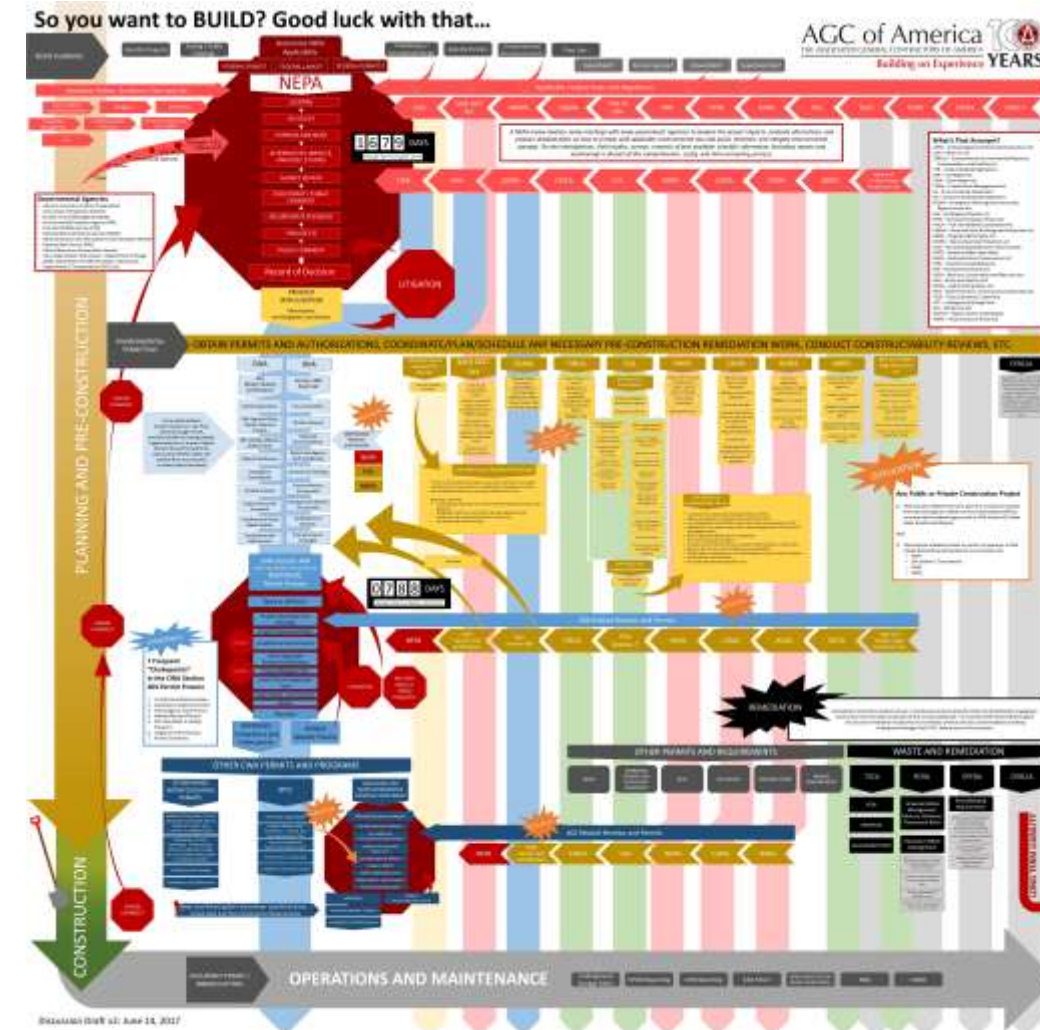


- The National Environmental Policy Act (NEPA) Phase II Rule was implemented in July.
 - The rule **ignores the intent of the bipartisan Fiscal Responsibility Act of 2023.**
- In September, AGC filed an amicus brief with the U.S. Supreme Court over changes to the NEPA permitting process.
- The **Energy Permitting Reform Act** was introduced in the Senate.



What Else Can Be Streamlined?

- Water permitting
 - 401 Water Quality Certs
 - 404 Dredge and Fill
 - 402 NPDES - Stormwater
- Species
 - Blanket 4(d) Rule for Threatened Species
 - Interagency Cooperation
 - Listings and Critical Habitat
- Migratory Bird – Incidental Take



PFAS Action Plan vs Roadmap



Trump Administration's Action Plan (2016-2020)	Biden-Harris Administration's Roadmap (2021-2024)
Develop SDWA MCL for PFOA and PFOS	Done
Initiate process to list PFOA and PFOS as hazardous substances under CERCLA	Done
Interim guidance on disposal and destruction	Revised
Take steps to require reporting under Toxics Release Inventory	Proposed
Chemical reviews under TSCA, including new uses	Done
Memo to address PFAS in NPDES	Issued similar memo
Effluent guidelines plan	Initiated rulemakings
Release guidance on groundwater cleanup	
	Water quality criteria
	Health advisories
	Also look at potential emissions under Clean Air Act

PVC as Hazardous Waste?



EPA REJECTS EFFORTS FROM ENVIRONMENTALISTS

- In 2014, the Center for Biological Diversity (CBD) **petitioned** EPA to classify discarded PVC as hazardous waste.
- AGC does not believe studies have enough data to justify banning PVC in construction.
- In April 2024, **EPA** once and for all **denied the request**.



Climate/Energy



- All of Government Approach
- CEQ GHG Guidelines
- SEC Climate Risk Reporting
- Climate Risk Reporting for Federal Contractors (FAR)
- Buy Clean (low carbon materials)
- Energy Policy

<https://unsplash.com/photos/KAXSflHgAl0>

How can individuals support advocacy efforts?

Respond to AGC Action Alerts • Meet with Your Congressional Leaders • Meet with Regulators • Congressional Testimony • Declarations

Volunteer in AGC Member Groups

AGC Engagement



- **Groups**

- Environmental Committee
- Climate Change Working Group
- New Task Force on PFAS – recruiting thru 12/13

- **Resources**

- Educational Sessions
 - [Jan 30 – Roundtable Meeting, CO](#)
 - June 2025 – Regulatory Summit, DC
- Climate Change Toolkit www.agc.org/climate-change
- Decarbonization and Carbon Reporting Playbook www.agc.org/climate-change-playbook



Help Us, Help You! UID Expansion



- The UID serves all contractors engaged in utility construction, but current membership is primarily water and wastewater contractors.
- With record funding coming online for broadband and energy projects and with Congress debating legislation in those sectors, we want to ensure that YOU have a seat at the table.
 - The IIJA provided \$42 billion toward broadband and \$73 billion for the electric grid and clean energy projects
 - The Inflation Reduction Act includes more than \$300 billion, largely through tax credits, for clean energy projects.
- Involvement only requires approximately one hour of time per month.

Ending Recording



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John Chambers john.chambers@agc.org

Next: Q&A / Discussion

What is the top environmental regulatory issue you're preparing for in 2025?

PFAS • risk • climate resiliency • species offsets • air quality • WOTUS • California ESG disclosures • scope 3 and embodied carbon • GHG reporting • permit streamlining • gap waters • green public procurement • consistency • ozone non-attainment • regulatory rollback • tracking regulatory developments • stormwater • interplay between states and federal • PM2.5

Questions?

- **Verbal:** Please use “raise hand” function in Microsoft Teams. When called on, please unmute to ask your question or offer feedback. Video optional.
- **Written:** Send via the chat box in Teams.