

December 18, 2025

THE SURGE

BY THE COMPETITIVE ENTERPRISE INSTITUTE

This edition of *The Surge* includes:

- WOTUS, offshore drilling and other critical rules
- The House passed a Clean Water Act reform bill and electricity reliability bill
- New proposed CAFE standards will make cars less expensive
- It's time to rethink federal efficiency standards for appliances

If you are not subscribed already to this publication and special updates, please [subscribe here](#).

1) Get Involved: WOTUS, Offshore Drilling, and More Rules

There are several important proposed regulations that have open comment periods. Here is a list of some of these important regulations:

Comments Due in December

Multiple Endangered Species Act Rules

- [Endangered and Threatened Wildlife and Plants; Regulations Pertaining to Endangered and Threatened Wildlife and Plants](#)
- [Endangered and Threatened Wildlife and Plants; Interagency Cooperation Regulations](#)
- [Endangered and Threatened Wildlife and Plants; Regulations for Designating Critical Habitat](#)

- [Endangered and Threatened Wildlife and Plants; Listing Endangered and Threatened Species and Designating Critical Habitat](#)

Agencies: US Fish and Wildlife Service (Interior); National Marine Fisheries Service, National Oceanic and Atmospheric Administration (Commerce)

Status: Comments are **due by December 22, 2025**.

Comments Due in January

Rule: [Updated Definition of “Waters of the United States”](#)

Agencies: EPA and US Army Corps of Engineers (Corps)

Status: Comments are **due by January 5, 2026**.

Rule: [The Safer Affordable Fuel-Efficient \(SAFE\) Vehicles Rule III for Model Years 2022 to 2031 Passenger Cars and Light Trucks](#)

Agency: National Highway Traffic Safety Administration (Transportation)

Status: Comments are **due by January 20, 2026**.

Rule: [Notice of Availability of the 11th National Outer Continental Shelf Oil and Gas Leasing Draft Proposed Program: 1st Analysis and Proposal MAA104000](#)

Agency: Bureau of Ocean Energy Management (Interior)

Status: Comments are **due by January 23, 2026**.

- Learn more about these rules and other developments in "[What’s coming in 2026 for energy and environmental policy](#)." (Daren Bakst, Open Market)

2) House Passes Two Important Energy and Environment Bills

Last week, the House passed the PERMIT Act ([H.R. 3898](#)) by a [vote](#) of 221-205 and the State Planning for Reliability & Affordability Act ([H.R. 3628](#)) by a [vote](#) of 218-207. CEI supported both bills. The PERMIT Act includes numerous Clean Water Act reforms, including reforms to the Section 401 process discussed earlier and eliminating what are known as preemptive and retroactive vetoes of Section 404 permits by the EPA.

The State Planning for Reliability and Affordability Act would [amend](#) the Public Utility Regulatory Policies Act of 1978 to require state regulatory authorities to consider a new federal standard. This new standard would require state regulated electric utilities to ensure the availability of reliable electricity in their integrated resource planning. This entails getting electricity from reliable generation facilities.

Central to the definition of such facilities is “the generation of electric energy on a continuous basis for a period of not fewer than 30 days.”

3) NHTSA’s Proposed Rollback of Mileage Standards: Good for Consumers and Consistent with the Law

The National Highway Traffic Safety Administration this month [proposed a major reset](#) of new-car Corporate Average Fuel Economy (CAFE) standards. NHTSA’s [2022](#) and [2024](#) CAFE rules required automakers to increase fleet average fuel economy (mpg) by 8% annually in Model Years (MYs) 2024 and 2025, 10% in MY 2026, and 2% annually during MYs 2027-2031. In contrast, the newly proposed standards tighten by 0.5% annually during MYs 2022-2026, 0.35% in MY 2027, and 0.25% during MYs 2028-2031.

The proposed changes would avoid an estimated \$900 in higher average vehicle sales price and make manufacturers more responsive to consumer priorities. The key to these changes is a new fidelity to [Sec. 32902\(h\)](#) of the Energy Policy and Conservation Act. NHTSA “may not consider” electric vehicle sales or the availability of CAFE compliance credits when determining the stringency of mileage standards. By interpreting that prohibition loosely, previous administrations empowered NHTSA to set CAFE standards increasingly incompatible with vehicle affordability and choice. Trump’s CAFE reset would end that abuse.

- [Transportation Department seeks to restore sanity to fuel economy standards: CEI analysis](#) (Marlo Lewis)

4) CRE: Meeting Big Power Demands Off the Grid

There's a new way to meet rising power demand from new large load customers such as data centers without affecting the broader grid: Consumer Regulated Electricity (CRE). CRE allows customers to get electricity from off-grid islanded power grids that are not attached to the broader grid. [New Hampshire](#) recently passed legislation authorizing CRE in the state. At the federal level, FERC is engaged in a rulemaking process on the interconnection of new large loads to the power grid. CEI filed a [reply comment](#) with FERC supporting [a comment](#) by the Cato Institute seeking to clarify that FERC will not interfere with CRE at the state level.

- [Supporting Clarification for Consumer Regulated Electricity](#): Reply Comments of Paige Lambermont

5) It's Time to Rethink Federal Efficiency Standards for Appliances

The Department of Energy's (DOE) appliance efficiency standards program has been in place for decades, subjecting nearly every major home appliance to multiple rounds of increasingly stringent regulations. Although these rules are often promoted as consumer-friendly measures to reduce energy use and costs, they have frequently produced the opposite effect: raising prices, limiting product choice, and undermining appliance performance, reliability, and longevity. More recently, the program has been stretched well beyond its statutory intent and used as a vehicle for climate policy. CEI's recent report, *Free the Appliances: Turn Out the Lights on Federal Efficiency Standards*, documents the history of this program and offers ideas for reform.

- [Free the Appliances! Turn out the lights on federal efficiency standards](#) (Ben Lieberman, OnPoint)

6) New Report Shows Investment Firms Diverting From ESG Positions

Unleash Prosperity (UP) recently published their [latest edition](#) of "Putting Politics Over Pensions," an annual scorecard ranking investment advisers that cast proxy votes on environmental, social, and governance (ESG) issues. Each year, investment firms render proxy votes on an array of ESG resolutions targeting their clients' future earnings and retirement savings. UP's latest report reveals some promising findings, showcasing how the largest investment firms are retreating from the most radical ESG positions.

This sees a reversal from the norm where major asset managers like BlackRock, State Street, and JP Morgan once paved the path for shareholder embrace of ESG issues. UP's report ranks 275 investment advisers of varying sizes to reveal which firms adhere best to their fiduciary obligations. While the biggest investment advisers appear to be deviating from ESG, more pressure is needed for mid-to-small-sized firms to return to a pursuit of pension profitability over politics.

- [Politics over pensions: An ESG report card for proxy voting](#) (Stone Washington, Open Market)

FEATURING OUR FRIENDS

[Blue States, High Rates](#), Tom Pyle, Kenny Stein, Alexander Stevens, Institute for Energy Research.

[A New Wave of American Offshore Energy](#), Austin Gae, Heritage Foundation.

[SPEED Act: Standardizing Permitting and Expediting Economic Development](#), America First Policy Institute.

[Energy “Transition” Hits a Dead End](#), Bonner Cohen, CFACT.

Competitive Enterprise Institute
1310 L Street NW, 7th Floor
Washington, DC 20005
www.cei.org

[Manage Email Preference](#)