

Amendment to the Westerman ANS to H.R. 4776
Offered by Rep. Huffman

At the end, insert:

SEC. 4. EFFECTIVE DATE.

This Act shall not take effect until and unless the Secretary of the Interior, in consultation with the Secretary of Transportation and Secretary of Energy, certifies that all grants and funds supporting clean energy projects like wind, solar, storage, and transmission rescinded since January 21, 2025, have been reinstated.

Further, this Act shall not take effect until and unless the Secretary of the Interior, in consultation with the Secretary of Transportation and Secretary of Energy, certifies that regulations have been implemented to prevent future rescissions, including:

(a) LIMITATIONS ON WITHDRAWAL—Such regulations shall provide that once an agency has allocated or approved a specific amount of funding to an energy project and provided public or written notice of that allocation to the recipient, the agency shall not withdraw, rescind, cancel, materially reduce, or redirect that allocation except—

(1) at the written request of the recipient; or

(2) pursuant to a written determination for which the agency bears the burden of proof and demonstrates, by clear and convincing evidence, that—

(A) the recipient was ineligible at the time of allocation;

(B) the application contained material misrepresentations or omissions; or

(C) the agency and the recipient concur, in writing, that the project has become infeasible for reasons beyond the control of the United States and the recipient and cannot reasonably be modified to cure that infeasibility.

(b) RELIANCE INTERESTS—Such regulations shall provide that before issuing a determination under subsection (a)(2), the agency shall—

(1) provide the recipient a reasonable opportunity to submit information regarding actions taken and commitments made in reliance on the allocation, including expenditures, contractual obligations, issuance of debt, and foregone alternative opportunities;

(2) consider those reliance interests and whether any lesser measure, such as modification of milestones, re-scoping of the project, or partial

deobligation, would be legally permissible and would avoid or minimize harm to those reliance interests; and

(3) explain in its written determination how it has satisfied paragraph (2).

(c) JUDICIAL REVIEW—Such regulations shall provide that an agency action to withdraw, rescind, cancel, materially reduce, or redirect an allocation described in this section shall be subject to review under chapter 7 of title 5, United States Code. In any such action, the agency shall bear the burden of demonstrating compliance with such regulations, and a court shall consider the adequacy of the agency's treatment of reliance interests in determining whether the action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.