OKLAHOMA CITY UNIVERSITY LAW REVIEW

VOLUME 50 WINTER 2025–SPRING 2026 NUMBERS 2 & 3

COMMENT

WHERE THE WATER RUNS CLEAR: FAIR NOTICE, LOCAL AUTHORITY, AND THE SUPREME COURT'S REJECTION OF VAGUE WATER QUALITY STANDARDS

Mia Paladini[*]

I. Introduction

In a world where climate instability and environmental degradation are increasingly existential threats, clean water infrastructure stands at the heart of public health and regulatory authority. Who holds the reins of environmental enforcement—the federal government or local municipalities—has never been a more urgent question. The balance of powers determines how pollution is measured, how violators are held accountable, and how communities safeguard their most vital resources. In *City & County of San Francisco v. EPA*, the United States Supreme Court examined whether the Environmental Protection Agency ("EPA") may rely on broad water quality standards to impose imprecise and non-numeric obligations in National Pollutant Discharge Elimination System ("NPDES") permits.[1] *San Francisco* challenged the scope and language of

[*] Juris Doctor Candidate, Oklahoma City University School of Law, May 2027.

1. 604 U.S. 334, 337-38 (2025).

those permits, arguing they violated fair notice principles and exceeded governmental authority under the Clean Water Act ("CWA").[2]

Following the Court's recent decision in *Loper Bright Enterprises v. Raimondo*—which formally overruled the *Chevron U.S.A. Inc. v. National Resources Defense Council, Inc.* doctrine[3]—the boundaries of agency deference are being redrawn. In *San Francisco*, the majority's refusal to uphold ambiguous, agency-driven enforcement reflects its adherence to *Loper Bright*'s directive that courts must independently determine whether Congress has authorized the agency's action.

This Comment argues that the Supreme Court correctly held that the EPA's use of vague "narrative limits" in San Francisco's permit violated both statutory clarity and due process principles. It contends that the decision should not be viewed merely as a win for local government but as part of a broader doctrinal shift on the road away from *Chevron*-style deference and toward a jurisprudence that values fair notice and federalism.

It proceeds in four parts. Part II provides relevant historical context and traces of the evolution of federal water regulation—from the inadequate framework of the 1948 Water Pollution Control Act to the enforceable structure of the modern CWA. It explains the Act's two core regulatory mechanisms—effluent limitations and water quality standards—and introduces the permitting process. Part III presents the factual background, procedural history, and the Court's analysis, including the majority and dissenting opinions. Part IV argues that the Court's holding was both legally correct and doctrinally significant. It situates *San Francisco* within the evolving framework of administrative law following *Loper Bright*, emphasizing the importance of precise statutory interpretation, fair notice, and meaningful judicial oversight of agency authority. Part V offers a concluding synthesis of the Comment's core analysis and reflects the decision's national significance for environmental regulation and local government authority.

II. Relevant Law

A. Combined Sewer Overflows ("CSOs")

2. *Id.* at 338-39.

3. Loper Bright Enters. v. Raimondo, 603 U.S. 369, 412 (2024), *overruling*, Chevron U.S.A. Inc. v. Nat. Res. Def. Council, Inc., 467 U.S. 837 (1984).

Municipalities across the United States operate complex sewage systems to safely collect, treat, and discharge wastewater and storm runoff.[4] A persistent challenge in many cities is the issue of Combined Sewer Overflows ("CSOs").[5] During periods of heavy rainfall, these systems "may exceed the facility's treatment capacity, and the result may be the discharge of untreated water, including raw sewage" into nearby water bodies.[6] The CWA acknowledges this problem and addresses it through policies such as the EPA's CSO Control Policy.[7] This framework requires municipalities to adopt a Long-Term Control Plan, offering a structured approach to mitigating overflows.[8] These regulations aim to provide clear, enforceable steps to CSO management, rather than relying on vague guidelines.[9]

B. History of the WPCA and the CWA

Congress first attempted to address the growing problem of water pollution with the enactment of the Water Pollution Control Act ("WPCA")[10] in 1948. The WPCA reflected the prevailing view that "'controlling water pollution' was primarily a state responsibility," leaving the federal government to play only a supporting role.[11] Over the next two decades, Congress amended the WPCA several times to expand federal involvement;[12] however, the statute remained fundamentally unchanged at its core.[13] It lacked enforceable standards and relied heavily on state discretion.[14]

The WPCA followed a backward-looking enforcement model, which required authorities to work in reverse—first allowing environmental harm to occur, then attempting to "prove that a particular entity should be

4. City and County of San Francisco v. EPA, 604 U.S. 334, 337-38 (2025).
5. *Id.* at 341-42.
6. *Id.* at 342.
7. *Id.*
8. *Id.* (citing Combined Sewer Overflow (CSO) Control Policy, 59 Fed. Reg. 18689, 18691 (Apr. 19, 1994)).
9. *See id.*
10. Water Pollution Control Act of 1948, Pub. L. No. 80-845, 62 Stat. 1155, 1155-61 (codified as amended at 33 U.S.C. §§ 1251-1387).
11. *San Francisco*, 604 U.S. at 339 (citing § 1, 62 Stat. at 1155).
12. *Id.* at 340 n.6.
13. *Id.*
14. *See id.*

held responsible for the problem."[15] In other words, pollution had to exist before enforcement could be triggered, at which point authorities were tasked with proving that a specific party caused the pollution and should be held responsible.[16]

In 1972, Congress enacted the Clean Water Act ("CWA"),[17] in response to growing dissatisfaction with the ineffectiveness of the WPCA, which "aimed directly at the sources of pollution."[18] The CWA introduced a forward-looking regime that targeted pollution at its source. It signified a shift from state-driven enforcement to a comprehensive federal framework grounded in enforceable water quality standards. The CWA authorizes the EPA to "issue permits that impose requirements on entities that wish to discharge 'pollutants' . . . into the waters of the United States."[19] Its stated objective is "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," effectively expanding federal authority to regulate water quality.[20] Discharging pollutants is unlawful unless done in compliance with the CWA's permitting framework, which includes effluent limitation, "provisions that specify the quantities of enumerated pollutants that may be discharged,"[21] sometimes coupled with the "steps that a discharger must take" to achieve this.[22] To implement this framework, the CWA established the National Pollutant Discharge Elimination System ("NPDES").[23] Under this scheme, any person or entity seeking to discharge pollutants from a point source must obtain an NPDES permit.[24]

C. TBELs and WQBELs

To implement the CWA's goals—regulating discharges and maintaining water quality—the CWA relies on two regulatory tools:

---

15. *Id.*
16. *Id.*
17. Federal Water Pollution Control Act Amendments (Clean Water Act) of 1972, 33 U.S.C. §§ 1251-1387.
18. *San Francisco*, 604 U.S. at 340.
19. *Id.* at 337-38 (footnotes omitted) (citing 33 U.S.C. §§ 1342(b), 1362(6)-(7)).
20. 33 U.S.C. § 1251(a).
21. *San Francisco*, 604 U.S. at 338 (citing 33 U.S.C. § 1362(11)).
22. *Id.*
23. *Id.* at 340.
24. *Id.*; *see also* 33 U.S.C. § 1342.

technology-based effluent limitations ("TBELs" or "effluent limitations") and water quality-based effluent limitations ("WQBELs").[25] Effluent limitations are codified in 33 U.S.C. § 1311(b)(1), which authorizes the EPA to impose restrictions on the "quantities, rates, and concentrations of chemical, physical, biological, and other constituents" discharged from point sources like pipes or drains.[26] These limits are based on the best available pollution control technologies and are designed to apply uniform standards for discharge compliance.[27] In this way, TBELs are forward-looking and "force agencies and permit applicants to adopt technologies that achieve the greatest reductions in pollution."[28]

However, the CWA recognizes that even the best technology may not always be sufficient to protect water quality, as addressed in § 1311(b)(2)(A).[29] When TBELs are "insufficient to attain or maintain water quality standards, the CWA requires NPDES permits to include additional water quality-based effluent limits" that are "sufficient to the task."[30] These limitations differ in that they are "set without regard to cost or technology availability"; instead, they are imposed to ensure the water's designated usage is protected.[31] Under § 1312(a) of the CWA, WQBELs act as a critical supplement to TBELs and are based on the condition of the water itself, such as how much pollution was already present.[32]

D. Narrative Limitations, End-Result Requirements, and Permit Shield Provisions

In *San Francisco*, the central conflict arose over how the EPA

25. *San Francisco*, 604 U.S. at 340-41; *see* 33 U.S.C. § 1311(b)(1)(A)-(C); 40 C.F.R. §§ 122.44(a)(1), (d)(1)(vii) (2025).
26. *Id.* at 340 (quoting 33 U.S.C. § 1362(11)).
27. *See id.* at 341.
28. Nat. Res. Def. Council v. U.S. EPA, 808 F.3d 556, 563-64 (2d Cir. 2015).
29. 33 U.S.C. § 1311(b)(2)(A).
30. *Nat. Res. Def. Council*, 808 F.3d at 564-65 (internal citations and quotations omitted) (quoting Nat. Res. Def. Council, Inc. v. EPA, 822 F.2d 104, 110 (D.C. Cir. 1987)).
31. *Id.* at 565.
32. *See* 33 U.S.C. § 1312(a).

implemented WQBELs.[33] Specifically, the EPA relied on vague narrative language in San Francisco's NPDES permit—language that broadly "prohibit[ed] the facility from making any discharge that 'contribute[s] to a violation of any applicable water quality standard' for receiving waters."[34] Another provision barred San Francisco from "perform[ing] any treatment or mak[ing] any discharge that 'create[s] pollution, contamination, or nuisance'" without providing measurable criteria or clear guidelines.[35] While the CWA permits non-numeric narrative limitations in certain situations, particularly where numeric limits are unavailable, such as in general permits governed by "best [management] practices," these limitations must still constitute specific and enforceable requirements.[36]

The Supreme Court in *San Francisco* drew a crucial line between narrative limitations, which set broad water quality goals in non-numeric language, and end-result requirements, which hold permittees strictly liable "if the quality of the water in its receiving waters falls below the applicable standards" even where they have "punctiliously follow[ed] every specific requirement in its permit . . . ."[37] This distinction carries implications for the CWA's permit shield provision, codified at 33 U.S.C. § 1342(k), which protects dischargers from liability so long as they comply "to the terms of its permit."[38] If vague narrative limitations could be enforced as end-result mandates, the permit shield could be essentially nullified, exposing permittees to "crushing penalties" despite full compliance.[39] In contrast, general permits, which govern broad categories of dischargers, often rely on "best practices" rather than "numerical limitations."[40]

E. Signaling a Shift away from Chevron Deference

For decades, courts evaluating federal agency interpretations of statutes applied the two-step framework of *Chevron*.[41] Under this

33. City and County of San Francisco v. EPA, 604 U.S. 334, 338-39 (2025).
34. *Id.* at 343 (alteration in original) (quoting City and County of San Francisco v. U.S. EPA, 75 F.4th 1074, 1085 (9th Cir. 2023)).
35. *Id.* (quoting 75 F.4th at 1085).
36. *Id.* at 341; 40 C.F.R. § 122.44(k)(3).
37. *San Francisco*, 604 U.S. at 338.
38. *Id.* at 341; 33 U.S.C. § 1342(k).
39. *San Francisco*, 604 U.S. at 338.
40. *Id.* at 341.
41. Chevron U.S.A. Inc. v. Nat. Res. Def. Council, Inc., 467 U.S. 837, 842-43

approach, courts first asked "whether Congress ha[d] directly spoken to the precise question at issue"; if not, they proceeded to step two and deferred to any reasonable agency interpretation.[42] This doctrine granted agencies, including the EPA, broad discretion in interpreting ambiguous statutory language. That framework, however, was formally overruled in *Loper Bright*, where the Supreme Court held that courts may not "defer to an agency interpretation of the law simply because a statute is ambiguous."[43]

San Francisco was decided after *Loper Bright* and therefore reflects this doctrinal shift. In *San Francisco*, the majority refused to adopt the EPA's broad interpretation of § 1311(b)(1)(C), which would have permitted vague, open-ended narrative terms to serve as binding conditions in NPDES permits.[44] By rejecting the EPA's view and declining to engage in the two-step framework formally prescribed by *Chevron*, the Court exercised the independent judicial review required under *Loper Bright*.[45]

III. The Case

A. Factual Background

The permittee, San Francisco, owns "two combined sewer systems and treatment facilities—'Bayside' and 'Oceanside.'"[46] The Oceanside facility, serving 250,000 residents, and its NPDES permit were before the Court.[47] Oceanside had operated under permit without controversy until 2019, when "California['s] Regional Water Quality Control Board for the San Francisco Bay Region ('Regional Water Board')" and the EPA approved a permit including two contested terms.[48] The case centers around those provisions which "do not spell out what a permittee must do or refrain from doing; rather, they make a permittee responsible for the quality of the water in the body of water into which the permittee discharges pollutants."[49] Specifically, the first prohibits any discharge

(1984), *overruled by*, Loper Bright Enters. v. Raimondo, 603 U.S. 369 (2024).

42. *Chevron*, 467 U.S. at 842-43.
43. *Loper Bright*, 603 U.S. at 413.
44. *San Francisco*, 604 U.S. at 355.
45. *See id.* at 354-56.
46. City and County of San Francisco v. U.S. EPA, 75 F.4th 1074, 1082 (9th Cir. 2023), *rev'd*, 604 U.S. 304 (2025).
47. *Id.*
48. *Id.*
49. *San Francisco*, 604 U.S. at 337.

contributing to a violation of water quality standards; the second barred any discharge constituting "pollution, contamination, or nuisance" under California law.[50] San Francisco had complied with all specific requirements but still risked severe civil penalties due to the changed language and narrative limitations in the amended provisions.[51] San Francisco contended the provisions violated the CWA, the EPA failed in their duty to specify actionable limitations towards municipalities, and that it was "never put on notice that it was obligated to take any specific step other than those it undertook."[52]

B. Procedural History

San Francisco challenged the amended provisions before the EPA's Environmental Appeals Board ("EAB"), which upheld the permit.[53] The city then petitioned for review in the U.S. Court of Appeals for the Ninth Circuit under 33 U.S.C. § 1369(b)(1)(F).[54] The divided Ninth Circuit denied the petition and upheld the EPA's interpretation.[55] The panel reasoned that under § 1311(b)(1)(C), the EPA has the authority "to impose 'any' limitations that seek to ensure that applicable water quality standards are satisfied in a receiving body of water."[56]

San Francisco petitioned the United States Supreme Court for certiorari.[57] The Supreme Court granted review and focused on whether narrative water-quality based limitations lacking specificity violated the CWA and fair notice doctrine.[58] In the decision issued in 2025, the Supreme Court reversed the Ninth Circuit, holding that the EPA's vague narrative conditions exceeded its statutory authority and failed to provide entities with sufficient notice of their legal obligations.[59]

C. Majority Opinion

50. *Id.* at 343 (internal quotation marks omitted) (quoting City and County of San Francisco v. U.S. EPA, 75 F.4th 1074, 1085 (9th Cir. 2023)).
51. *Id.* at 338.
52. *Id.*
53. *In re* City and County of San Francisco, 18 E.A.D. 322, 325 (EAB 2020).
54. *San Francisco*, 604 U.S. at 343.
55. *Id.*
56. *Id.*
57. *Id.*
58. *See id.*
59. *See id.* at 353-56.

Writing for the majority, Justice Alito reversed the Ninth Circuit's decision in a 5–4 ruling, holding that the vague narrative limitations in San Francisco's NPDES permit exceeded the EPA's statutory authority under the CWA and violated principles of due process.[60] The Court stated that "[t]he text and structure of the CWA, as well as the history of federal water pollution legislation, make this clear."[61]

(1) Statutory Language and Textual Structure

The Court began by rejecting San Francisco's first argument—"that all 'limitations' imposed under § 1311 must qualify as effluent limitations."[62] The argument was deemed "fatal," as "[t]he statutory text dooms this broad argument."[63] Citing *Russello v. United States*, the Court reaffirmed that when "Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion."[64] It emphasized that it "cannot believe that Congress omitted the term 'effluent' from § 1311(b)(1)(C) simply because it wanted to save ink or assumed that regulators and interested parties would understand that the omission of the term was inconsequential."[65]

The Court then addressed San Francisco's narrower alternative argument: that even if the statute allows limitations beyond numeric effluent restrictions, it still "does not authorize [the] EPA to impose NPDES permit requirements that condition permitholders' compliance on whether receiving waters meet applicable water quality standards."[66] The majority expressly agreed with San Francisco, concluding that the statute's text and structure supported the city's interpretation.[67]

In its analysis of San Francisco's narrower argument, the Court began with statutory interpretation, explaining that § 1311(b)(1)(C) permits the EPA to impose "more stringent *limitation[s]*" only where they are "necessary to *meet*" or "required to *implement*" state or federal water quality standards, but it does not authorize vague narrative conditions that

60. *Id.* at 337-39.
61. *Id.* at 339.
62. *Id.* at 344.
63. *Id.*
64. *Id.* (quoting Russello v. United States, 464 U.S. 16, 23 (1983)).
65. *Id.*
66. *Id.* at 345-46.
67. *Id.* at 346.

provide no clear standard for compliance.[68] "All the italicized terms in the preceding sentence suggest that the most natural reading of § 1311(b)(1)(C) is that it authorizes the EPA to set rules that a permittee must follow in order to achieve a desired result, namely, a certain degree of water quality."[69]

The Court interpreted the word "limitation" to mean a "restriction or restraint imposed *from without* (as by law[)]," finding that only provisions directing permittees to take specific, measurable actions meet this definition.[70] Vague directives that leave permittees to determine on their own if they are compliant do not qualify.[71] The terms "implement" and "meet" reinforced this reading, both requiring "concrete measures."[72] As the Court explained, merely stating an objective—like teachers instructing their students to pass an exam—does not implement a plan to meet those goals.[73]

(2) The Evolution of the CWA and Permit Shield Provisions

The majority opinion further emphasized that the EPA's interpretation would return to a backward-looking enforcement model, which Congress already explicitly rejected in 1972 due to its complexity and inefficiency.[74] This approach, as relied upon by the EPA, would undermine the permit shield provision, which is meant to protect "entit[ies] that adhere[] to the terms of its permit . . . ."[75] By attempting to enforce vague "end-result" provisions, the EPA has the potential to strip away the clarity and predictability provided by the permit shield provision.[76] This move would undo the safeguards intended by Congress, leaving municipalities vulnerable to factors outside their control.[77] The majority expressed their disapproval, stating that "[i]t is therefore exceedingly hard to reconcile the Government's interpretation of § 1311(b)(1)(C) with the permit shield,"

68. *Id.* at 346 (quoting 33 U.S.C. § 1311(b)(1)(C)).
69. *Id.*
70. *Id.* (alteration in original) (quoting WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 1312 (1976)).
71. *Id.*
72. *Id.* at 347 (quoting WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 1134 (1976)).
73. *Id.* at 348.
74. *Id.* at 352.
75. *Id.* at 341.
76. *See id.* at 351.
77. *Id.*

and ultimately rejected that interpretation on fairness grounds.[78]

D. Partial Dissent

In Justice Barrett's partial dissent, she agreed with portions of the majority opinion but disagreed with its conclusion that the EPA exceeded its statutory authority under the relevant text.[79] She was joined by Justices Sotomayor, Kagan, and Jackson in asserting that the CWA clearly authorizes the EPA to include broad narrative limitations in NPDES permits.[80] In their view, the relevant statutory text—33 U.S.C. § 1311(b)(1)(C)—permits the "EPA to impose 'any more stringent limitation[s]' . . . 'required to implement any applicable water quality standard[s],'" including narrative terms regarding downstream water conditions.[81] Justice Barrett contends that such conditions fall within the meaning of "limitations," even if they do not describe the precise actions a permittee must take.[82]

She argued that general or outcome-based limitations are routinely used in various legal contexts.[83] Drawing an analogy, she explains that "an airline could impose a 'limitation' on the weight of checked bags, even though it does not tell passengers what items to pack."[84] In this way, the dissent maintains that narrative limitations sufficiently constrain permit holders through language requiring them not contribute to water quality violations.[85]

The dissent also rejected the majority's reliance on the fair notice and permit shield provisions, emphasizing that vague permit conditions may be challenged under existing doctrines, such as arbitrary and capricious review.[86] In her view, new judicial doctrines aimed at stopping regulatory overreach are unnecessary as existing law provides sufficient safeguards.[87]

IV. Argument

---

78. *Id.*
79. *Id.* at 356 (Barrett, J., dissenting in part).
80. *Id.* at 356-57.
81. *Id.* at 356.
82. *See id.* at 367-68.
83. *Id.* at 360.
84. *Id.*
85. *See id.* at 358, 360-62.
86. *Id.* at 361-62, 365.
87. *Id.* at 362 (citing Nat. Res. Def. Council v. U.S. EPA, 808 F.3d 556, 578 (2d Cir. 2015)).

A. Statutes Demand Precision, Not Ambiguity

In *San Francisco*, the Supreme Court provided a crucial reminder that the CWA is a statute grounded in clarity, requiring the EPA to adopt appropriately precise corrective measures.[88] The Court's decision marks a significant shift in administrative law, affirming that regulatory agencies—like the EPA—may not bypass statutory mandates by relying on vague, outcome-based standards.[89] Under the CWA, the EPA has broad authority to issue permits regulating pollutants discharged into the waters of the United States.[90] These permits include "effluent limitations," which control levels of pollutants discharged into receiving waters.[91] Entities violating these conditions may face "enormous civil penalties and may face criminal prosecution for 'knowing' or even 'negligent' violations" of the NPDES permit guidelines.[92] However, the Court's decision reinforces that, while civil penalties are allowed, they may only be imposed under mandates that are clear, specific, and allow for attainable compliance.[93]

The Court expressly rejected the EPA's inclusion of "end-result" provisions in San Francisco's NPDES permit.[94] The ruling emphasized that under § 1311(b)(1)(C), although the EPA may impose "more stringent limitation[s]" on pollutants, those limits must be satisfied "by concrete measures," not by result-oriented directives.[95] Including provisions that merely mandate an outcome—such as prohibiting "any discharge that 'contribute[s] to a violation of any applicable water quality standard,'" violates the CWA's intended design.[96] In rejecting end-result provisions, the Court reaffirmed that the statute permits enforcement of specific effluent limitations, which provide the predictability necessary to ensure lawful compliance and avoid penalties.[97]

The Court's insistence on precision and measurable standards aligns squarely with broader public policy jurisprudence favoring clear

88. *Id.* at 355 (majority opinion).
89. *See id.*
90. *Id.* at 337-38.
91. *Id.* at 338.
92. *Id.* at 341 (citing 33 U.S.C. § 1319(c)-(d)); *see also* 40 C.F.R. § 19.4 (2025).
93. *See id.* at 350-52.
94. *Id.* at 355.
95. *Id.* at 344, 347.
96. *Id.* at 343 (quoting City and County of San Francisco v. U.S. EPA, 75 F.4th 1074, 1085 (9th Cir. 2023)).
97. *See id.* at 351.

regulatory requirements. For example, in *Utility Air Regulatory Group v. EPA*, the Court emphasized a shift toward prioritizing unambiguous statutory language.[98] The Court's interpretation here reinforces that the EPA's authority must remain within the bounds set by Congress and cannot be expanded through ambiguous language.[99] As the Court explained in *Utility Air*, when an agency claims broad regulatory power, "[w]e expect Congress to speak clearly if it wishes to assign to an agency decisions of vast 'economic and political significance.'"[100]

B. The Fair Notice Doctrine

The Court's interpretation in *San Francisco* strongly resonates with core principles of the fair notice doctrine, derived from the Due Process Clause of the Fifth and Fourteenth Amendments.[101] The fair notice doctrine acts as a beacon for a just society, anchoring our legal system in the fundamental principle "that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required."[102] The "requirement of clarity in regulation is essential to the protections provided by the Due Process Clause of the Fifth Amendment."[103] Under this doctrine, if an agency imposes regulatory requirements that carry the possibility of substantial civil or criminal penalties, it must provide unambiguous directives regarding compliance that would put "a person of ordinary intelligence" on notice.[104]

In *San Francisco*, the EPA sought to impose end-result provisions that would have held the city liable for violating WQBELs without providing clear guidance on how to achieve compliance.[105] The Court's rejection of these provisions reinforces the need for clear standards to ensure entities understand their obligations—especially where penalties are at stake.[106]

---

98. *See* Util. Air Regul. Grp. v. EPA, 573 U.S. 302, 324-25 (2014).
99. *Id.* at 324.
100. *Id.* (quoting FDA v. Brown & Williamson Tobacco Corp., 529 U.S. 120, 160 (2000).
101. *See* FCC v. Fox Television Stations, Inc., 567 U.S. 239, 253 (2012); *see also* U.S. CONST. amend. V; *id.* amend. XIV, § 1.
102. *Fox Television*, 567 U.S. at 253 (first citing Connally v. General Constr. Co., 269 U.S. 385, 391 (1926); then citing Papachristou v. City of Jacksonville, 405 U.S. 156, 162 (1972)).
103. *Id.*
104. *Id.* (internal quotations omitted) (quoting United States v. Williams, 553 U.S. 285, 304 (2008)).
105. City and County of San Francisco v. EPA, 604 U.S. 334, 347 (2025).
106. *See id.* at 338.

The Ninth Circuit's earlier ruling, permitting such provisions, would have left San Francisco uncertain as to which steps were necessary to meet the vague standards in its NPDES permit, thereby exposing it to "crushing" penalties based on subjective, backward-looking assessments of receiving water quality.[107] By rejecting the EPA's ambiguous provisions, the Court ensured that entities like the City of San Francisco are not penalized for failing to meet undefined standards, effectively protecting due process rights.

C. Applying the Post-Chevron Framework

A critical aspect of *San Francisco* is that it was decided after the Supreme Court overruled *Chevron* in *Loper Bright* in 2024. In *Loper Bright*, the Court stated that "when a particular statute delegates authority to an agency consistent with constitutional limits, courts must respect the delegation, while ensuring that the agency acts within it. But courts need not and under the APA may not defer to an agency interpretation of the law simply because the statute is ambiguous."[108] In *Chevron*, a longstanding—though now overruled—precedent of administrative law, the Court directed lower courts to defer to agency interpretations of ambiguous statutes under a two-step framework.[109] The first step asked "whether Congress ha[d] directly spoken to the precise question at issue"; the second step applied if the statute was "silent or ambiguous," requiring deference to the agency's interpretation so long as it was reasonable in light of the statutory framework.[110] That framework long served as the foundation of administrative law, affording agencies such as the EPA significant leeway to interpret ambiguous statutory provisions.[111]

The Court's decision in *San Francisco* marks an early application of the post-*Loper Bright* approach.[112] Because the definitive overruling of *Chevron* occurred in *Loper Bright* in June 2024, *San Francisco* operated within the doctrinal landscape that *Loper Bright* created. Instead, *Loper Bright* clarified that courts must determine whether Congress has authorized such actions.[113] *San Francisco* reflects that directive. The Court

107. *Id.*
108. Loper Bright Enters. v. Raimondo, 603 U.S. 369, 413 (2024).
109. Chevron U.S.A. Inc. v. Nat. Res. Def. Council, Inc., 467 U.S. 837, 842-43 (1984).
110. *Id.* at 842-44.
111. *Id.* at 844.
112. *See* City and County of San Francisco v. EPA, 604 U.S. 334, 355 (2025).
113. *Id.* at 405.

examined the CWA and concluded that the EPA lacked authority to impose "end-result" provisions not clearly tied to statutory text.[114] This opinion reflects a broader analytical shift towards direct statutory interpretation rather than reliance on agency guidance. In doing so, it reinforces that agency authority extends only as far as Congress has clearly delegated, particularly where regulatory action carries significant compliance penalties.

D. Narrative Standards Cannot Replace Enforceable Obligations

The Court in *San Francisco* clarified the distinction between narrative limitations and enforceable limitations in regulatory law. The EPA argued that, pursuant to § 1311(b)(1)(C) of the CWA, it was allowed to include end-result provisions in NPDES permits, allowing enforcement of water quality standards in a manner that "do[es] not spell out what a permittee must do or refrain from doing" but makes them "responsible for the quality of the water" their discharges ultimately affect.[115] The Court rejected the EPA's interpretation and determined that imposing end-result provisions without articulating clear steps for compliance would turn the permitting process into a subjective system of enforcement, inappropriately favoring the EPA.[116] Importantly, the Court did not expressly prohibit the use of narrative limitations; rather, it narrowed their application to certain situations.[117] In this instance, involving the NPDES permits, the Court found that narrative limitations were not appropriate.[118]

Furthermore, the EPA's position disregarded an important aspect of the CWA—the permit shield provision of § 1342(k). This provision deems that a permittee is in compliance with the CWA if they adhere to the terms of "a permit issued pursuant to this section."[119] The shield is invaluable as it protects against the CWA's severe penalties for noncompliance with permit terms.[120] Had the EPA's interpretation prevailed, it would have rendered the permit shield provision meaningless.[121] The Court's rejection reinforces that only concrete measures defining actionable steps for

114. *San Francisco*, 604 U.S. at 355.
115. *Id.* at 338.
116. *Id.* at 352-55.
117. *Id.* at 354.
118. *See id.* at 353-55.
119. 33 U.S.C. § 1342(k).
120. *San Francisco*, 604 U.S. at 351.
121. *See id.*

compliance may be enforced under the CWA.[122]

E. Clarifying the Requirement of Enforceable Regulatory Standards

The Court reached the correct result in *San Francisco* by rejecting the EPA's use of vague, end-result provisions. This decision reinforces the principle that regulatory enforcement must be grounded in clear statutory language to ensure fair and predictable compliance. The majority opinion appropriately protects the due process interests of regulated entities and adheres to the intentions of the CWA. By prioritizing clear, measurable standards, the Court ensures that penalties are imposed only for violations of obligations that permittees can reasonably understand from the statute and the permit itself. The ruling also reflects the Court's post-*Loper Bright* approach to administrative law. In overruling *Chevron*, *Loper Bright* confirmed a broader administrative shift away from *Chevron* deference, emphasizing the judiciary's critical role in checking broad government authority.

V. Conclusion

The decision in *San Francisco* marks a consequential moment in environmental and administrative law. By rejecting the EPA's vague "end-result" provisions, the Court protected the due process rights of regulated entities and clarified that enforcement must be based on specific statutory obligations.[123] The decision signals that agencies cannot rely on longstanding policy statements or interpretive flexibility to expand enforcement authority beyond the statutory framework Congress enacted. As administrative law continues to evolve, *San Francisco* represents a meaningful application of this new framework, shaping environmental regulation while affirming the integrity of the rule of law.

---

122. *Id.*
123. *See id.* at 354-55.