



Pending Deadlines

WRDA22 Implementation Guidance

Comment period closes Mar. 21, 2023.

- [Request for Information](#)
- [Listening Session Webpage](#)
- [Comment Docket](#)

BOEM Proposed Renewable Energy Modernization Rule

Comment period closes Mar. 31, 2023

- [Proposed Rule](#)
- [Staff Summary](#)
- [Draft CSO Comments](#) (edits due Mar. 17)
- [Comment Docket](#)

USGCRP National Nature Assessment RFI

Comment period closes Mar. 31, 2023.

- [Request for Information](#)
- [Comment Docket](#)

CEQ NEPA Greenhouse Gas and Climate Change Interim Guidance

Comment period closes Apr. 10, 2023 (extended).

- [Interim Guidance](#)
- [CEQ Guidance Webpage](#)
- [Comment Docket](#)

BOEM – Proposed Rule for Marine Archaeological Resource Requirements for Oil & Gas

Comment period closes Apr. 17, 2023.

- [Proposed Rule](#)
- [Comment Docket](#)

Recent CSO Letters/Comments

- n/a

BOEM – Proposed Renewable Energy Modernization Rule Draft Comments Under Review

Update

The Offshore Energy & Infrastructure Work Group is reviewing [draft CSO comments](#) on BOEM's proposed [Renewable Energy Modernization Rule](#). CSO comments focus on coordination between CZMA and NEPA review processes and securing adequate information requirements (especially regarding geotechnical reviews).

Context

On Jan. 30, 2023, the Bureau of Ocean Energy Management (BOEM) published its [proposed Renewable Energy Modernization Rule](#), making significant changes to the federal process for issuing leases and reviewing development plans for offshore wind projects on the Outer Continental Shelf. The deadline for public comment via [Regulations.gov](#) is **Friday, Mar. 31, 2023**.

Current offshore wind regulations were promulgated in 2011, and have evolved in implementation through guidance and agency practice as the U.S. offshore wind industry has expanded. BOEM has been developing the Renewable Energy Modernization Rule for several years to codify and refine existing practices.

On Mar. 7, 2022, pursuing member priorities identified through the Offshore Energy & Infrastructure Work Group, CSO submitted a letter to BOEM calling on the agency to initiate CZMA federal consistency review of COPs at the time BOEM releases a draft environmental impact statement. The proposed rule would implement this change for future COPs; it is unclear how projects currently in development would be affected.

BOEM – Proposed Rule for Marine Archaeological Resource Requirements for Oil & Gas

Update

On Feb. 15, 2023, BOEM published a [proposed rule](#) revising its regulatory requirements applying to oil & gas projects for surveying and protecting marine archaeological resources. The rule would expand the requirement for an archaeological report to all oil & gas exploration and development, define information requirements, and set out procedures. Comments may be submitted via [Regulations.gov](#) through **Apr. 17, 2023**.

Context

The proposed rule would revise BOEM's process for compliance with 106 of the National Historic Preservation Act. 16 U.S.C. § 470. BOEM's existing regulations require energy developers to submit an archaeological report with an OCS plan only when a BOEM Regional Director has a "reason to believe" that an archaeological resource may be present. BOEM interprets this "reason to believe" standard as requiring its Regional Directors to either have evidence that such a resource is present or to use a predictive model that indicates a resource is likely to be present in the area.

EPA – VIDA Litigation Filed

Update

On Feb. 6, 2023, the Center for Biological Diversity (CBD) and Friends of the Earth [filed suit](#) against the EPA in the Northern District of California on February 6, 2023, for failing to finalize the [Vessel Incidental Discharge \(VIDA\) National Standards of Performance](#) proposed rule issued Oct. 26, 2020.

Context

VIDA directs EPA to integrate the requirements of the 2013 Vessel General Permit (a general permit under the National Pollutant Discharge Elimination System) and the Coast Guard ballast water discharge standard into a unified regulatory regime for water pollutant discharges from most commercial vessels. On Oct. 26, 2020, EPA published a proposed rule setting environmental standards. On Nov 4, 2020, EPA issued a national consistency determination for the rulemaking. In response to concerns raised during public comment and state consultation, EPA announced plans in early 2021 to undertake a second round of outreach through governors' offices.

On Jan. 19, 2023, EPA announced it intends to develop a Supplemental Notice to the 2020 proposed rule by Fall of 2023. The U.S. Coast Guard is directed under VIDA to issue a second rulemaking following finalization of national standards to establish an enforcement framework.

EPA/USACE – Clean Water Act WOTUS Rule Effective Mar. 20

Update

The Jan. 18, 2023 EPA/USACE Clean Water Act [final rule](#) defining “waters of the United States” will enter into effect on **Monday, Mar. 20, 2023**. In addition to *Sackett v. EPA*, [No. 21-454](#), which is expected to be decided by the U.S. Supreme Court by June 2023, a series of new state and industry lawsuits have challenged the final rule. The cases are [Am. Farm Bureau Fed'n v. EPA](#), S.D. Tex., No. 3:23-cv-00020, complaint filed 1/18/23, [Texas v. EPA](#), S.D. Tex., No. 3:23-cv-00017, complaint filed 1/18/23, [Kentucky v. EPA](#), E.D. Ky., No. 3:23-cv-00007, complaint filed 2/22/23, [Kentucky Chamber of Commerce v. EPA](#), E.D. Ky., No. 3:23-cv-00008, complaint filed 2/22/23, and [W. Virginia v. EPA](#), D.N.D., No. 3:23-cv-00032, complaint filed 2/16/23.

Context

The jurisdictional reach of the Clean Water Act (CWA) is determined by the regulatory definition for WOTUS. Until the final rule enters into effect (and if it is not enjoined), the pre-2015 regulatory regime relying on case law favoring the "significant nexus" test controls. The January final rule was issued prior to the outcome of *Sackett v. EPA*, in which the U.S. Supreme Court may discard the legal basis for the “significant nexus” standard.