



Pending Deadlines

EPA – VIDA National Standards Supplemental Notice

Comment period closes Dec. 18, 2023.

- [Supplemental Notice](#)
- [Comment Docket](#)

EPA – NPDES Groundwater Discharge Draft Guidance

Comment period closes Dec. 27, 2023.

- [Draft Guidance](#)
- [Comment Docket](#)

OSTP – Federal Environmental Justice Science, Data, and Research Plan RFI

Comment period closes Jan. 12, 2023 ([extended](#)).

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

CEQ – Environmental Justice Scorecard Phase One Feedback RFI

Comment period closes Jan. 19, 2023.

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

NSF – National Ocean Biodiversity Strategy RFI

Comment period closes Feb. 28, 2023.

- [Request for Information](#)
- Comment Address: rfi-marinebiodiversity@nsf.gov

Recent CSO Letters/Comments

- Comment to EPA on VIDA supplemental notice (pending – Dec. 18, 2023)
- [Comment to OMB on grants regulations proposed rule](#) (Dec. 4, 2023)

OMB – Fall 2023 Regulatory Agenda Released

Update

On Dec. 9, 2023, the Office of Management and Budget released the [2023 Fall Unified Agenda](#), a compilation of information about ongoing and planned federal agency rulemaking released every Fall and Spring. Rules finalized later in 2024 could be subject to review under the [Congressional Review Act](#) by the 119th Congress; the cut-off date depends on how often the current Congress is in session over the next few months. A staff summary of listings relevant to coastal management programs is under development.

Context

The Unified Agenda of Regulatory and Deregulatory Actions is a compilation released every Fall and Spring by the Office of Management and Budget, Office of Information and Regulatory Affairs, providing the status of ongoing and planned federal agency rulemaking. The Agenda is typically released behind schedule. Agencies may not adhere to the aspirational timelines listed for each item, and the listings themselves are not open for public comment.

White House – Nature-Based Solutions Policies and Guidance Issued

Update

On Dec. 9, 2023, the White House [announced](#) a range of policies, guidance, and resources to advance the use of nature-based solutions (NBS) for climate resilience. Announced actions include:

- **NBS in NOFOs:** The Office of Management and Budget (OMB) released [all-of-government guidance](#) “strongly encouraging” federal agencies, for the first time, to incorporate a set of recommended best practices for climate resilience, sustainability, and nature-based solutions into federal infrastructure funding programs. Agencies are advised to provide technical assistance to applicants. The guidance also sets standards for federal agencies to incorporate natural hazard risk and climate resilience information in real property management.
- **Updated Directory of Federal Funding:** The White House Office of Science and Technology Policy (OSTP) and the Council on Environmental Quality (CEQ) released the [Nature-Based Solutions Resource Guide 2.0](#), an updated compilation of information on ~140 federal funding

programs and ~300 informational resources with examples, tools, and evidence to advance effective nature-based solutions.

- **DOI Strategic Guidance:** The Interior Department (DOI) released a [Nature-based Solutions Roadmap](#), an online tool created in partnership with Duke University that provides strategies, training resources, and successful examples for adopting nature-based solutions, and intends to issue a new [policy](#) to prioritize nature-based solutions across its bureaus and offices.

Other announcements include the U.S. joining the international partnership to [Enhance Nature-Based Solutions for an Accelerated Climate Transformation](#) as well as updates to NOAA's Climate Mapping for Resilience and Adaptation [portal](#) and the Fifth National Climate Assessment interactive [Atlas](#).

Context

The Nov. 2022 [Nature-Based Solutions Roadmap for America](#) strategy sets out NBS priorities across federal policy, funding, facilities and land management, workforce, and research programs. OMB's recent [guidance on benefit-cost analysis](#) in regulatory review and federal investments included provisions which support NBS approaches, and OMB is developing specialized [guidance](#) on accounting for the costs and benefits of ecosystem services.

OPC – Ocean Justice Strategy Released

Update

On Dec. 8, 2023, the Ocean Policy Committee released a new [Ocean Justice Strategy](#) providing principles and goals covering federal funding, interagency coordination, federal workforce development, and education, data, and knowledge. The strategy, which covers ocean and Great Lakes coastal communities and economies, recommends that federal agencies follow best practices for community engagement, funding accessibility, interagency coordination, and recognition of indigenous knowledge, but does not set specific goals, actions, or requirements. The document also includes summaries of relevant federal programs supporting or implementing best practices and select environmental justice data tools.

Context

The [OPC](#) is a Congressionally mandated, Cabinet-level interagency committee co-chaired by the Council on Environmental Quality and White House Office of Science and Technology Policy, and

charged with coordinating federal ocean policy. It led development of the [Ocean Climate Action Plan](#) issued March 2023.

CSO submitted [comments](#) developed through the Offshore Energy & Infrastructure work group on a June [Request for Information](#) about development of the Ocean Justice Strategy. Additionally, the OPC is currently developing a [National Strategy on a Sustainable Ocean Economy](#).

EPA – Guidance on NPDES Requirements for Groundwater Discharge

Update

On Nov. 20, EPA released new [Draft Guidance Regarding NPDES Permitting of Certain Discharges through Groundwater to Surface Waters](#). The guidance, replacing an earlier version issued in 2021, applies seven factors set out in the SCOTUS decision in [County of Maui v. Hawaii Wildlife Fund](#), 140 S. Ct. 1462 (2020) for determining whether a discharge into groundwater constitutes a “functional equivalent of a direct discharge” requiring a NPDES permit under the Clean Water Act. Comments may be submitted via [Regulations.gov](#) through **Dec. 27, 2034**.

Context

The Clean Water Act prohibits “the discharge of any pollutant by any person” unless authorized under the Act. 33 U.S.C. § 1311(a). EPA or states issue permits for discharges via the National Pollution Discharge Elimination System (NPDES). *Maui v. Hawaii Wildlife Fund* concerned whether a wastewater treatment plant on Maui, Hawaii, needed a NPDES permit for discharging pollutants into underground injection wells that then traveled through groundwater to the Pacific Ocean, a water of the United States.

EPA – 401 Water Quality Certification Final Rule Challenged

Update

On Dec. 4, 2023, eleven states and three trade groups jointly [filed suit](#) against the EPA challenging the agency’s recent Clean Water Act § 401 state water quality certification [final rule](#). The complaint

focuses on the expanded scope of state review under the new rule to include impacts of permitted project construction and operation on waters of the state, including those which are not waters of the United States protected under the Clean Water Act. Also challenged are the authority of states under the new rule to set information requirements for certification requests and EPA's decision to make the rule effective retroactively.

Context

On Sep. 27, 2023, EPA issued a [final rule](#) modifying Clean Water Act § 401 state water quality certification regulations, repealing certain [2020 regulatory changes](#), defining the scope of review as the water quality-related impacts from the entire activity subject to the federal permit, including construction and operation, and setting a default six-month review time limit. An EPA summary fact sheet is available.

Under Clean Water Act § 401, states and tribes have authority to grant, deny, or waive certification that the water quality impacts of proposed federal license or permit activity comply with state water quality standards. If the state or tribe denies certification, the federal agency is barred from issuing the license or permit. Many coastal states have integrated § 401 certification review under the CWA with federal consistency review under the CZMA.