



Pending Deadlines

OSTP – Federal Flood Standard Support Tool Beta

Comment period closes May 28, 2024.

- [Tool Platform](#)
- [Feedback Request](#)
- [Comment Docket](#)

Recent CSO Letters/Comments

- n/a

Issue Updates

CEQ – NEPA Phase 2 Final Rule Issued

Update

On May 1, 2024, the Council on Environmental Quality issued a [“Phase 2” final rule](#) revising its procedural implementation regulations under the National Environmental Policy Act. Following on a [“Phase 1” final rule](#) issued in 2022, this new rule implements Fiscal Responsibility Act amendments and codifies climate, equity, and engagement priorities.

Key changes include requiring agencies to balance short- and long-term beneficial and harmful effects, assess disproportionate impacts and climate change, and identify an environmentally preferable alternative. The final rule excludes a proposed provision to allow agencies to modify NEPA requirements for “innovative approaches” to address “extreme environmental challenges.” CEQ’s NEPA regulations provide a floor; agencies must promulgate NEPA procedures at least as rigorous as the CEQ baseline.

A staff summary is available [here](#). The final rule is effective **July 1, 2024**.

Context

CEQ announced plans for a two-phase rulemaking in 2021. The [“Phase 1” rule](#), issued Apr. 20, 2022, reversed several changes made through a [2020 rule](#), including restoring language about the scope of environmental analyses (“purpose and need”) and consideration of direct, indirect, and cumulative impacts, as well as confirming that CEQ’s regulations serve as a floor rather than a ceiling for federal

environmental reviews. The proposed Phase 2 rule codified regulatory changes and advanced administration policy priorities. CSO [commented](#) on both proposed rules.

NEPA was amended in the 2021 Bipartisan Infrastructure Law to require lead agencies to set joint review schedules and to impose presumptive two-year, 200-page limits on certain Environmental Impact Statements (EISs). The 2023 Fiscal Responsibility Act (aka debt ceiling bill) made further amendments, including extending presumptive two-year, 150-page limits to all EISs and creating a new cause of action for project sponsors to challenge agency delays.

BOEM – Renewable Energy Modernization Rule Issued

Update

On Apr. 24, 2024, BOEM [announced](#) that it has finalized the [Renewable Energy Modernization Rule](#) for offshore wind leasing and planning. The final rule makes changes to the Construction and Operation Plan (COP) review process supported by states, including beginning the CZMA federal consistency review process at the time the draft Environmental Impact Statement is issued. The rule also adopts a provision to allow submission of the results of *in situ* boring and sampling at each foundation location later in the review process, in lieu of requiring that information to be included in the COP. The final rule will be effective 60 days after publication in the Federal Register.

Additionally, on Apr. 24, 2024, BOEM announced a new [five-year offshore wind leasing schedule](#), which includes up to 12 potential offshore wind energy lease sales through 2028. The leasing schedule includes four potential lease sales in 2024, one each in 2025 and 2026, two in 2027, and four in 2028 across the Atlantic, Gulf of Mexico, Pacific, and the waters off the U.S. territories.

Context

BOEM regulates offshore renewable energy leasing and development under § 8(p) of the Outer Continental Shelf Lands Act. 43 U.S.C. § 1337(p). The most recent offshore wind regulations had been promulgated in 2011, and had 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.

CSO [commented](#) on the Jan. 2023 proposed rule and submitted a [letter](#) to NOAA calling on that agency to align its federal consistency regulations with BOEM's rule.

OMB – Federal Financial Assistance Final Rule Issued

Update

On Apr. 22, 2024, the Office of Management and Budget issued a [final rule](#) promulgating new OMB Guidance for Federal Financial Assistance, replacing the OMB Guidance for Grants and Agreements at title 2 of the Code of Federal Regulations. The Guidance sets out standards, thresholds, and procedures for federal funding programs, including NOAA Coastal Management Grants. Key changes in the final rule include:

- NOFOs (§ 200.204);
- Providing greater flexibility to implement post-award budget and program plan revisions and subaward management (§ 200.308);
- Increasing the equipment threshold (§ 200.313) and supplies threshold (§ 200.314) from \$5,000 to \$10,000;
- Increasing the Simplified Acquisition Threshold limit for fixed-amount subawards to \$500,000 (§ 200.333);
- Removing the prior written approval requirement for real property, equipment, direct costs, entertainment costs, memberships, participant support costs, selling and marketing costs, and taxes (§ 200.407);
- Raising the *de minimis* indirect cost rate from 10% to 15% (§ 200.414); and
- Increasing the audit threshold from \$750,000 to \$1,000,000 (§ 200.501).

The final guidance is effective **Oct. 1, 2024**, although agencies optionally may implement the guidance as early as **Jun. 21, 2024**.

Context

OMB's title 2 regulations set administrative, cost accounting, and audit requirements for federal funding, including NOAA Coastal Zone Management Grants. The regulations were last updated in 2013. CSO [commented](#) on the Oct. 2023 proposed rule.

DOE – CITAP Transmission Rule Issued

Update

On May 1, 2024, the Energy Department issued a [final rule](#) establishing a new [Coordinated Interagency Transmission Authorizations and Permits \(CITAP\) Program](#), setting out a single administrative record and binding federal permit review timeline for high voltage transmission projects which voluntarily participate in a revised Integrated Interagency Preapplication (IIP) Process. The new regulations apply to non-marine interstate transmission projects carrying greater than 230kV, or which are determined to be “regionally or nationally significant,” and which require a NEPA Environmental Impact Statement. Proponents of offshore grid projects (not generation export cables) can also request to use the accelerated process.

DOE serves as the NEPA lead (or co-lead) agency. The regulations set out a Standard Schedule template (draft available [here](#)) including three “anchor meetings” and requires a proponent to develop a stakeholder engagement strategy and 13 resource reports identifying environmental, economic, and cultural impacts. “Resource Report 1: General Project Description” requires the proponent to identify whether it will need to submit a CZMA consistency certification.

The new rule is effective **May 31, 2024**.

Context

The administration has prioritized accelerating the review process for new power transmission projects to fill capacity gaps in the national grid to support future renewable energy expansion. The CITAP process integrates authorizations and environmental reviews required to site proposed electric transmission facilities required under the Federal Power Act (16 U.S.C. 824p(h)), the Federal Land Policy and Management Act (43 U.S.C. 1701 *et seq.*), NEPA, and other statutes. The proposed rule follows a [2023 MOU](#) among nine agencies that review transmission projects.

The Energy Department has a separate program to designate National Interest Electric Transmission Corridors (NIETC) based on a National Transmission Needs Study. After DOE designates a NIETC, the Federal Energy Regulatory Commission (FERC) has separate authority under § 2016(b) of the Federal Power Act to issue permits within a corridor “in certain circumstances where states lack authority to site the project, have not acted on an application after more than one year, or have denied an application.” Approval under this FERC process is mutually exclusive from the DOE CITAP process. FERC has issued a [proposed rule](#) to update its NIETC program.

EPA – Tribal Reserved Rights WQS Rule Issued

Update

On May 2, 2024, EPA issued a [final rule](#) updating its Clean Water Act (CWA) regulation to require states to establish water quality standards (WQS) in waters where Tribes hold and assert rights to CWA-protected aquatic and aquatic-dependent resources reserved through treaties, statutes, or executive orders. The revised regulations for state submission and EPA review of new or revised WQS require states to consider the use, future use, and value of waters under Tribal reserved rights and to establish water quality criteria to protect the Tribal reserved right in certain cases. The final rule is effective **Jun. 1, 2024**.

Context

CWA section 303(c) directs states to adopt WQS for waters of the United States. The core components of WQS are designated uses, water quality criteria, and antidegradation requirements. EPA issued a [proposed rule](#) to require WQS for tribal reserved rights on Dec. 5, 2022. EPA also [intends](#) to issue a final rule in spring 2024 to establish WQSs for Indian reservations that do not have WQSs, following a [proposed rule](#) issued in May 2023.