



# United States Department of the Interior

BUREAU OF OCEAN ENERGY MANAGEMENT  
WASHINGTON, DC 20240-0001

Bureau of Ocean Energy Management  
Bureau of Safety and Environmental Enforcement  
Categorical Exclusion Review  
April 11, 2024

## **Renewable Energy Modernization Rule (RIN 1010-AE04)**

### **Final Action**

The Department of the Interior (the Department or DOI), acting through the Bureau of Ocean Energy Management (BOEM) and the Bureau of Safety and Environmental Enforcement (BSEE) (“the agencies”), is issuing a final rule to modernize its regulations to facilitate the development of offshore wind energy resources to meet U.S. climate and renewable energy objectives. This final rule will eliminate unnecessary requirements for the deployment of meteorological (met) buoys; increase survey flexibility; improve the project design and installation verification process; establish a public Renewable Energy Leasing Schedule; reform BOEM’s renewable energy auction regulations; tailor financial assurance requirements and instruments; clarify safety management system regulations; revise other provisions and make technical corrections. This final rule will advance DOI energy policies in a safe and environmentally sound manner that will provide a fair return to the U.S. taxpayer. This rule does not authorize any activities on the Outer Continental Shelf (OCS).

### **Determination and Rationale**

The agencies have determined that the final action would qualify for the Departmental categorical exclusion covering “regulations . . . that are of an administrative, financial, legal, technical, or procedural nature” 43 C.F.R. § 46.210(i); see also 516 Departmental Manual 15.4(C)(1) (covering “[i]ssuance and modification of regulations”). The agencies have also determined that the final action would not trigger any of the extraordinary circumstances listed in 43 C.F.R. § 46.215.

The final rule facilitates the development of renewable energy activities on the OCS and supports DOI’s commitment to ensuring safe and responsible domestic energy production as the nation transitions to a clean energy future. The final rule modernizes the offshore renewable energy regulations, streamlines processes, clarifies provisions, enhances compliance provisions, and corrects technical errors and inconsistencies. Through these changes, the Department aims to reduce administrative burdens and reduce cost and uncertainty while creating greater regulatory flexibility in a rapidly evolving industry. This final rule is a major modernization of the OCS



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renewable energy regulations and reflects lessons learned since the regulations were originally promulgated in 2009.

The final action is administrative and procedural in nature and does not authorize any activities on the OCS. The final rule modernizes existing regulations that were promulgated in 2009 as required by section 8(p)(8) of the Outer Continental Shelf Lands Act.

Accordingly, pursuant to 43 C.F.R. § 46.210(i) and 516 Departmental Manual 15.4(C)(1), the agencies have determined that the final action is categorically excluded from detailed review under NEPA (42 U.S.C. §§ 4321 *et seq.*). Further, as documented below, the agencies have determined based on their analysis that the final action would not trigger any of the extraordinary circumstances listed in 43 C.F.R. § 46.215.

## **Conclusion**

Based on the information above and in the tables below, and the absence of any extraordinary circumstances, this final rulemaking can proceed without preparation of an environmental assessment or environmental impact statement, in full compliance with NEPA.

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## Extraordinary Circumstances (43 C.F.R. § 46.215)

Actions that normally fall within the scope of a categorical exclusion require analysis under NEPA where extraordinary circumstances apply. The Department’s list of extraordinary circumstances is located at 43 C.F.R. § 46.215. The below analysis evaluates the rule against each identified potential extraordinary circumstance and concludes that the final action would not trigger any of the extraordinary circumstances listed in 43 C.F.R. § 46.215.

<b>Could the final action:</b>	<b>Answer:</b>
(a)...have significant impacts on public health or safety?	No. This rulemaking is procedural and administrative. This rule does not authorize any activities on the OCS and will not have any significant impacts on public health or safety. All activities that occur after promulgation of this rule will be subject to NEPA review prior to approval.
(b)...have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (EO 11990); floodplains (EO 11988); national monuments; migratory birds; and other ecologically significant or critical areas?	No. This rulemaking is procedural and administrative. This rule does not authorize any activities on the OCS. Therefore, this rulemaking will not have significant impacts on natural resources or unique geographic characteristics. All activities that occur after promulgation of this rule will be subject to NEPA review prior to approval.
(c)...have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)]?	No. This rulemaking is procedural and administrative. This rule does not authorize any activities on the OCS. Therefore, this rulemaking will not have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources. All activities that occur after promulgation of this rule will be subject to NEPA review prior to approval.
(d)...have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?	No. This rulemaking is procedural and administrative. This rule does not authorize any activities on the OCS. Therefore, this rulemaking



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	<p>will not have any significant environmental effects, including unique or unknown environmental risks. All activities that occur after promulgation of this rule will be subject to NEPA review prior to approval.</p>
<p>(e)...establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects?</p>	<p>No. This rulemaking updates and modernizes existing regulations. This action stands on its own and does not establish a precedent for future actions or a decision in principle about future actions with potentially significant environmental effects. All activities that occur after promulgation of this rule will be subject to NEPA review prior to approval.</p>
<p>(f)...have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects?</p>	<p>No. This rule does not authorize any activities on the OCS and does not have a relationship to other actions that could result in cumulatively significant environmental effects. All activities that occur after promulgation of this rule will be subject to NEPA review prior to approval.</p>
<p>(g)...have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau?</p>	<p>No. This rulemaking is procedural and administrative. This rule does not authorize any activities on the OCS. Therefore, this rulemaking will not have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau. All activities that occur after promulgation of this rule will be subject to NEPA review and consultation under the National Historic Preservation Act, if appropriate, at the time the agencies decide whether to allow activities to take place on the OCS.</p>



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<p>(h)...have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species or have significant impacts on designated Critical Habitat for these species?</p>	<p>No. This rulemaking is procedural and administrative. The agencies have reached a separate determination of no effects on endangered or threatened species or their habitats. This rule does not authorize any activities on the OCS. All activities that occur after promulgation of this rule will be subject to site-specific NEPA and ESA compliance review at that time. These reviews may result in project-specific consultations and/or protective measures, including Project Design Criteria /effects minimization measures, Reasonable and Prudent Measures, or Terms and Conditions.</p> <p>Therefore, this rulemaking will not have any significant impacts on species listed, or those proposed to be listed, on the List of Endangered or Threatened Species, or to designated Critical Habitat for these species.</p>
<p>(i)...violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment?</p>	<p>No. This rulemaking conforms to all applicable laws and requirements imposed for the protection of the environment. All activities that occur after promulgation of this rule will be reviewed for compliance with all applicable laws at that time, including any Federal, State, local, or Tribal laws.</p>
<p>(j)...have a disproportionately high and adverse effect on low income or minority populations (EO 12898)?</p>	<p>No. This rulemaking is procedural and administrative. This rule does not authorize any activities on the OCS. Therefore, this rulemaking will not have any disproportionately high and adverse effect on low income or minority populations (EO 12898). All activities that occur after promulgation of this rule will be subject to NEPA review prior to approval, including review pursuant to EO 12898 for any disproportionately high and adverse effects on low income or minority populations.</p>



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<p>(k)...limit access to and ceremonial use of Indian sacred sites on federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007)?</p>	<p>No. This rulemaking is procedural and administrative. This rule does not authorize any activities on the OCS. The rulemaking will not limit access to, or ceremonial use of, Indian sacred sites on federal lands by Indian religious practitioners, or significantly adversely affect the physical integrity of such sacred sites (EO 13007). All activities that occur after promulgation of this rule will be subject to NEPA review prior to approval and, if applicable, consultation pursuant to EO 13007 with Tribes and ANCSA Corporations, at that time.</p>
<p>(l)...contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act (FNWCA) and EO 13122)?</p>	<p>No. This rulemaking is procedural and administrative in nature. This rule does not authorize any activities on the OCS. Therefore, this rulemaking will not contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act (FNWCA) and EO 13122). All activities that occur after promulgation of this rule will be subject to NEPA review prior to approval, including any appropriate EO 13122 review, at that time.</p>