



441 G St. N.W.
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B-336370

May 30, 2024

The Honorable Joe Manchin
Chairman
The Honorable John Barrasso
Ranking Member
Committee on Energy and Natural Resources
United States Senate

The Honorable Bruce Westerman
Chairman
The Honorable Raúl Grijalva
Ranking Member
Committee on Natural Resources
House of Representatives

Subject: *Department of the Interior, Bureau of Ocean Energy Management, Bureau of Safety and Environmental Enforcement: Renewable Energy Modernization Rule*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of the Interior (DOI), Bureau of Ocean Energy Management (BOEM), and the Bureau of Safety and Environmental Enforcement (collectively, the Agencies) entitled “Renewable Energy Modernization Rule” (RIN: 1010-AE04). We received the rule on April 30, 2024. It was published in the *Federal Register* as a final rule on May 15, 2024. 89 Fed. Reg. 42602. The effective date of the rule is July 15, 2024.

According to the Agencies, this final rule finalizes regulatory amendments to renewable energy regulations under the authority of the Outer Continental Shelf Lands Act. The Agencies stated that the rule eliminates unnecessary requirements for the deployment of meteorological buoys; increases survey flexibility; improves the project design and installation verification process; establishes a public Renewable Energy Leasing Schedule; reforms BOEM’s renewable energy auction regulations; tailors financial assurance requirements and instruments; clarifies safety management system regulations; revises other provisions; and makes technical corrections. Additionally, the Agencies stated that the rule advances DOI’s energy policies in a safe and environmentally sound manner that will provide a fair return to the U.S. taxpayer.

Enclosed is our assessment of the Agencies’ compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to

the subject matter of the rule, please contact Charlie McKiver, Assistant General Counsel, at (202) 512-5992.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive style with a large initial 'S' and a long, sweeping tail on the 'J'.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Karen Thundiyil
Director, Office of Regulations
Bureau of Ocean Energy Management
Department of the Interior

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF THE INTERIOR,
BUREAU OF OCEAN ENERGY MANAGEMENT,
BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT
ENTITLED
“RENEWABLE ENERGY MODERNIZATION RULE”
(RIN: 1010-AE04)

(i) Cost-benefit analysis

The Department of the Interior (DOI), Bureau of Ocean Energy Management (BOEM), and the Bureau of Safety and Environmental Enforcement (collectively, the Agencies) considered the costs and benefits associated with this final rule. BOEM prepared a Regulatory Impact Analysis on behalf of DOI, in which BOEM identified four elements of the rule that have quantifiable effects. BOEM found that three of those elements (met buoy requirements, financial assurance, and geotechnical survey revisions) provide compliance cost savings, and one, SMS reporting, has minor compliance cost burdens. In net, BOEM estimated that the rule could save the Outer Continental Shelf renewable energy industry approximately \$127 million in annualized cost savings over a 20-year period of analysis (3 percent discounting).

In regard to benefits, the Agencies stated that the rule provides additional clarity and certainty, while streamlining the regulatory framework. The Agencies further stated that changes from the rule will facilitate more expedient and responsible development of offshore renewable energy projects.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

The Agencies determined that this final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

The Agencies determined that this final rule does not contain an unfunded mandate that would result in the expenditure by state, local, or tribal governments, in the aggregate, or on the private sector, of \$100 million or more, adjusted annually for inflation, in any one year, and does not significantly or uniquely affect small governments.

(iv) Agency actions relevant to the Administrative Pay-As-You-Go-Act of 2023, Pub. L. No. 118-5, div. B, title III, 137 Stat 31 (June 3, 2023)

Section 270 of the Administrative Pay-As-You-Go-Act of 2023 amended 5 U.S.C. § 801(a)(2)(A) to require GAO to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO’s major rule reports. In guidance to Executive Branch agencies, issued on September 1, 2023, the Office of Management and Budget (OMB) instructed that agencies should include a statement explaining that either: “the

Act does not apply to this rule because it does not increase direct spending; the Act does not apply to this rule because it meets one of the Act's exemptions (and specifying the relevant exemption); the OMB Director granted a waiver of the Act's requirements pursuant to section 265(a)(1) or (2) of the Act; or the agency has submitted a notice or written opinion to the OMB Director as required by section 263(a) or (b) of the Act" in their submissions of rules to GAO under the Congressional Review Act. OMB, *Memorandum for the Heads of Executive Departments and Agencies*, Subject: Guidance for Implementation of the Administrative Pay-As-You-Go Act of 2023, M-23-21 (Sept. 1, 2023), at 11–12. OMB also states that directives in the memorandum that supplement the requirements in the Act do not apply to proposed rules that have already been submitted to the Office of Information and Regulatory Affairs, however agencies must comply with any applicable requirements of the Act before finalizing such rules.

The Agencies did not discuss the Act in this final rule. In their submission to us, the Agencies indicated that the Act is not applicable.

(v) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On January 30, 2023, the Agencies published a proposed rule. 88 Fed. Reg. 5968. The Agencies summarized the significant comments received on the proposed rule and provided responses to them in this final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

The Agencies determined that this final rule contained information collection requirements (ICRs) subject to PRA. The ICRs are entitled "30 CFR part 285, Renewable Energy and Alternate Uses of Existing Facilities on the Outer Continental Shelf" associated with OMB Control Number 1014-0034, and "Renewable Energy Modernization (Final Rulemaking)" associated with OMB Control Number 1010-0195. For 1014-0034, the Agencies estimated the ICR to have a burden of 894 hours. For 1010-0114, the Agencies estimated the ICR to have a decrease of 290 hours.

Statutory authorization for the rule

The Agencies promulgated this final rule pursuant to various sections of title 43 of the United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

The Agencies determined that this final rule is significant under the Order and submitted it to OMB for review.

Executive Order No. 13132 (Federalism)

The Agencies determined that this final rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement and will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.