c. The recipient shall post in conspicuous places available to employees and beneficiaries in their predominant languages the notices to be provided by the Department of State regarding the nondiscrimination policy implemented in this award term.

d. The recipient shall notify beneficiaries and prospective beneficiaries that the recipient is prohibited from discriminating on the basis of race, ethnicity, color, religion, sex, gender, sexual orientation, gender identity or expression, sex characteristics, pregnancy, national origin, disability, age, genetic information, indigeneity, marital status, parental status, political affiliation, or veteran's status. The notice shall include information (telephone numbers, email addresses, and mailing addresses) necessary to contact the Department of State Inspector General's Fraud, Waste, and Abuse hotline to report potential violations of this award term.

e. The recipient shall take such action with respect to any subaward or contract as the Department of State may direct as a means of enforcing this award term, including terminating for noncompliance.

f. The recipient shall:

1. Notify its employees and agents of:

i. The policy prohibiting discrimination, described in paragraph (a) of this award term; and

ii. The actions that will be taken against employees or agents for violations of this policy. Such actions for employees may include, but are not limited to, removal from the award, reduction in benefits, or termination of employment; and

2. Take appropriate action, up to and including termination, against employees, agents, or subrecipients that violate the policy in paragraph (a) of this clause.

g. *Notification.*

1. The recipient shall inform the Grants Officer, Grants Officer Representative, and the Department of State Inspector General immediately of:

i. Any credible information it receives from any source (including host country law enforcement) that alleges an employee of the recipient, subrecipient entity, an employee of a subrecipient, or their agent has engaged in conduct that violates the policy in paragraph (a) of this award term; and

ii. Any actions taken against an employee of the recipient, subrecipient entity, an employee of a subrecipient employee, or their agent pursuant to this award term.

2. If the allegation may be associated with more than one award, the recipient shall inform the Grants Officer for the award with the highest dollar value.

h. *Remedies.* In addition to other remedies available to the U.S. Government, the recipient's failure to comply with the requirements of this award term may result in:

1. Requiring the recipient to remove an employee or subrecipient employee from the performance of the award;

2. Requiring the award recipient to terminate a subaward;

3. Suspension of award payments until the recipient has taken appropriate remedial action;

4. Declining to exercise available options under the award;

5. Termination of the award for default or cause, in accordance with the Department of State Standard Terms and Conditions for Federal Awards; or

6. Suspension or debarment.

i. The recipient must insert this award term, modified as appropriate or necessary to identify the parties, including this paragraph, in all subawards under this award.

(End of award term)

§ 602.50 Referral.

A Department official will inform the Department's suspension and debarment official if an award is terminated based on a violation of a prohibition contained in the award term under § 602.40.

Kevin E. Bryant,

Deputy Director, Office of Directives Management, Department of State.

[FR Doc. 2024–01059 Filed 1–18–24; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 166 and 167

[Docket No. USCG–2019–0279]

RIN 1625–AC57

Shipping Safety Fairways Along the Atlantic Coast

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish shipping safety fairways (''fairways'') along the Atlantic Coast of the United States, identified in the Atlantic Coast Port Access Route Study. Fairways would preserve the safe and reliable transit of vessels along well-established traffic patterns and routes. While vessels are not required to use them, fairways are designed to keep traditional navigation routes free from fixed structures that could impact navigation safety and impede other shared offshore activities. The Coast Guard recognizes that there is increasing interest in offshore commercial development, including offshore renewable energy installations, and believes this development is best served by the establishment of consistent and well-defined fairways. The proposed fairways would help ensure that offshore developments remain viable by allowing developers to construct and maintain installations without risk of impeding vessel traffic. The Coast Guard is also proposing to establish traffic separation schemes and precautionary areas along the Atlantic coast to further improve navigation safety.

DATES: Comments and related material must be received by the Coast Guard on or before April 18, 2024.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0279 using the Federal Decision Making Portal at *www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Maureen Kallgren, Coast Guard; telephone 202–372–1561, email *Maureen.R.Kallgren@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Public Participation and Request for Comments

The Coast Guard views public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can

help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at *www.regulations.gov.* To do so, go to *www.regulations.gov,* type USCG–2019–0279 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *www.regulations.gov* Frequently Asked Questions (FAQ) web page. That FAQ page also explains how to subscribe for email alerts that will notify you when comments are posted or if a final rule is published. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to *www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Public Meeting. We do not plan to hold a public meeting, but we will consider doing so if we determine from public comments that a meeting would be helpful. We would issue a separate **Federal Register** notice to announce the date, time, and location of such a meeting.

II. Abbreviations

ACP American Clean Power
ACPARS Atlantic Coast Port Access Route Study
AIS Automatic Identification System
ANPRM Advance Notice of Proposed Rulemaking
AWO American Waterways Operators
BOEM Bureau of Ocean Energy Management
BSEE Bureau of Safety and Environmental Enforcement
Call Call for information and nominations
COMDTINST Commandant Instruction
COP Construction and Operation Plans
CZMA Coastal Zone Management Act
CFR Code of Federal Regulations
°T Degrees true
DHS Department of Homeland Security
EEZ Exclusive Economic Zone
EA Environmental Assessment
EIS Environmental impact statement
EPA Environmental Protection Agency
ESA Environmental Species Act
Fairways Shipping safety fairways
FR Federal Register
GW Gigawatts
IMO International Maritime Organization
MMPA Marine Mammal Protection Act
MTS Marine Transportation System
MW Megawatts
NAICS North American Industry Classification System
NAVCEN Coast Guard Navigation Center
NEPA National Environmental Policy Act
NM Nautical mile
NPRM Notice of proposed rulemaking
OCS Outer Continental Shelf
OMB Office of Management and Budget
OREI Offshore renewable energy installation
PARS Port Access Route Studies
RFI Request for interest
SBA Small Business Administration
§ Section
TSS Traffic separation scheme
USACE United States Army Corps of Engineers
U.S.C. United States Code
USN United States Navy
WEA Wind energy area
WGS 84 World Geodetic System 1984

III. Basis and Purpose

Chapter 700, Ports and Waterways Safety, of Title 46 United States Code (U.S.C.) authorizes the Secretary of the department in which the Coast Guard is operating to take certain actions to advance port, harbor, and coastal facility safety and security. Specifically, 46 U.S.C. 70001 and 70034 authorize the Secretary to promulgate regulations to establish reporting and operating requirements, surveillance and communications systems, routing systems, and fairways. The Secretary has delegated this authority to the Commandant of the Coast Guard (Department of Homeland Security (DHS) Delegation 00170.1, Revision No. 01.3, paragraph (II)(70)).

This notice of proposed rulemaking (NPRM) proposes to codify existing vessel traffic patterns into shipping safety fairways (''fairways''), traffic separation schemes (TSSs), and precautionary areas along the Atlantic Coast of the United States to facilitate offshore development and ensure that traditional navigation routes are kept free from fixed structures that could affect navigation safety. The Coast Guard recognizes that current offshore development trends and other increased shared commercial activities on the Outer Continental Shelf (OCS) necessitate cohesion between industries. We believe that OCS users are best served by establishing consistent and clearly defined fairways that preserve historic shipping routes and safe access to the Marine Transportation System (MTS). Fairways, TSSs, and precautionary areas are designed to preserve traditional maritime commerce routes and safe access to U.S. ports and protect them from fixed structures that could impact navigation safety.

A shipping safety fairway is a lane or corridor, in which no fixed structure is permitted, that sets aside areas of sufficient depth and dimensions to accommodate vessels and to allow for the orderly and safe movements of vessels transiting to or from ports. A TSS is a designated routing measure that separates opposing streams of traffic into traffic lanes, in which vessels all travel in roughly the same direction. A precautionary area is a designated routing measure with defined limits, where vessels must navigate with caution. These navigation systems would help to manage expectations of use and development along the OCS by communicating to the public the exact coordinates of established shipping lanes and routes.

IV. Background

The Coast Guard seeks comments regarding the proposed establishment of fairways, TSSs, and precautionary areas along the Atlantic Coast of the United States, based on navigation safety corridors recommended by the Atlantic Coast Port Access Route Study (ACPARS). In this section, the Coast Guard provides background information on fairways, TSSs, the ACPARS, and related Port Access Route Studies (PARS).

A. Shipping Safety Fairways and Traffic Separation Schemes

Section 70003 of Title 46 U.S.C. directs the Secretary of the department in which the Coast Guard operates to designate necessary fairways, TSSs, and precautionary areas that provide safe access routes for vessels proceeding to and from U.S. ports. Designating a particular area as a fairway establishes the requirement that the area remains free of fixed structures that could pose navigational hazards or impediments. Designating a particular area as a TSS separates opposing streams of vessel traffic, and designating a particular area

as a precautionary area indicates where vessels should navigate with particular caution.[1] Fairways and TSSs [2] are typically established along existing and heavily traveled shipping routes. Accordingly, these designations help maintain safe shipping and recognize the ''paramount right of navigation'' over other uses within the designated areas.[3]

The Coast Guard coordinates the possible establishment of fairways along the Atlantic Coast, complementary port approaches, and international entry and departure zones with the Bureau of Ocean Energy Management (BOEM) and other users of waterways to guarantee collaboration between offshore energy leasing efforts and efforts to codify customary shipping routes. The Coast Guard is prohibited under 46 U.S.C. 70003(b)(1) from designating fairways, TSSs, and precautionary areas in areas where such a designation would deprive any person of the effective exercise of a vested right granted by a lease or permit executed or issued under other applicable provisions of law.

Fairways and TSSs are designated through Federal regulations as directed by 46 U.S.C. 70003. Regulations governing fairways in title 33 of the Code of Federal Regulations (CFR) part 166 provide that fixed structures and artificial islands are not permitted within fairways because these structures would jeopardize safe navigation. Regulations governing TSSs and precautionary areas in 33 CFR part 167 provide designated routing measures that separate opposing streams of traffic by establishing a separation zone and traffic lanes. TSSs and associated precautionary areas are submitted to the International Maritime Organization (IMO) for adoption and international recognition after the close of the public comment period and subsequent publication of a final rule. Modifying an existing TSS may include adjustment of the associated traffic lanes and separation zones for specific port approaches. The Coast Guard has the authority to establish, modify, or relocate existing fairways and TSSs to improve navigation safety and to preserve unimpeded navigation where appropriate. See 46 U.S.C. 70003 and 33 CFR 166.110.

Before establishing or modifying fairways, TSSs, and precautionary areas, 46 U.S.C. 70003(c)(1) requires the Coast Guard to study potential traffic density and assess the need for safe access routes for vessels in the area for which they are proposed. In accordance with 46 U.S.C. 70003(c)(2), the Coast Guard consulted with all required Federal and appropriate State agencies while conducting the consolidated PARS. In executing these studies, the Coast Guard considered the views of the maritime community, environmental groups, and other stakeholders to reconcile the need for safe access routes with reasonable waterway uses to the extent practicable. See 46 U.S.C. 70003(c)(3). In addition to determining the necessary location for fairways, TSSs, and precautionary areas, the studies also assessed widths of fairways, TSSs, and precautionary areas based on vessel size and maneuverability, and density of the predominant vessel traffic. As part of its assessment, the Coast Guard attempts to recognize and identify potential impacts and balance these against the need to preserve safe navigation routes.

During the PARS process, and as required by 46 U.S.C. 70003(c)(2), the Coast Guard considered competing uses of the OCS that may interfere with the proposed fairways. The Coast Guard notes that it is not mandatory for vessels to use fairways or TSSs. Rather, the primary legal effect of establishing these fairways, TSSs, and precautionary areas is to ensure that safe access to or from U.S. ports is available for marine traffic, and to prevent the establishment of any artificial island, fixed structure, or other impediment to vessel traffic. The PARS process did not identify any existing or planned structures, including existing wind energy area (WEA) leases, that would be affected by any of the fairways, TSSs, and precautionary areas proposed in this rule.

B. Atlantic Coast Port Access Route Study (ACPARS)

On May 11, 2011, the Coast Guard announced the ACPARS to address potential navigational safety risks associated with offshore energy development and to support future marine planning efforts. The Coast Guard analyzed vessel traffic along the entire Atlantic Coast and focused on waters located seaward of existing port approaches within the U.S. Exclusive Economic Zone (EEZ). This extensive study area allowed the Coast Guard to consider vessel movements among both domestic and international ports of call to inform marine planning for the entire Atlantic seaboard. The Coast Guard used Automatic Identification System (AIS) data and information from shipping organizations to identify traditional navigation routes. The AIS data identified customary routes transited by towing vessels and deep draft vessels. Because these two vessel types have different maneuvering capabilities and navigation safety requirements, the identification of their customary routes and required fairway widths were studied separately and aggregated for final recommendation in the ACPARS.

The Coast Guard announced the availability of the ACPARS report and requested public comment in the **Federal Register** (FR) on March 14, 2016 (81 FR 13307). After considering comments submitted in response to that notice, the Coast Guard determined that the report was complete as published and announced this finding in the **Federal Register** on April 5, 2017 (82 FR 16510). The ACPARS report is available for public viewing in several locations: (1) In the docket for this rulemaking, as indicated in section I of this preamble, Public Participation and Request for Comments; (2) in the docket for the ACPARS itself (docket number USCG–2011–0351); and (3) at *https://www.navcen.uscg.gov/port-access-route-study-reports.*

The ACPARS identified navigation safety corridors [4] along the Atlantic Coast that have the width necessary for safe navigation based on the predominant two-way vessel traffic and customary routes identified with AIS data.[5] The ACPARS identified customary deep draft vessel routes as navigation safety corridors and recommended developing these corridors into official fairways or other appropriate vessel routing measures. These routes should be given consideration over other alternatives, in accordance with international law, as reflected in Article 78 of the United Nations Convention on the Law of the Sea (''Convention''), which states, ''[t]he exercise of the rights of the coastal State over the continental shelf must not infringe or result in any unjustifiable

[1] A fairway or shipping safety fairway is a lane or corridor in which no artificial island or fixed structure, whether temporary or permanent, will be permitted. Temporary underwater obstacles may be permitted under certain conditions described for specific areas. Aids to navigation approved by the Coast Guard may be established in a fairway. See 33 CFR 166.105(a).

[2] These terms are defined in 33 CFR 166.105(a) and 33 CFR 167.5(b), respectively.

[3] See limitations on such designations in 46 U.S.C. 70003(b).

[4] Navigation safety corridor is a term used in the ACPARS final report for areas required by vessels to safely transit along a customary navigation route under all situations. A navigation safety corridor is not inherently a routing measure and should not be confused with fairways, two-way routes, or TSSs. Navigation safety corridors have the potential to become a fairway, two-way route, or a TSS but not until they receive such a designation from the Coast Guard.

[5] See pages i, 11, and 12, and Appendix VII of the ACPARS, which is available in the docket *https://www.regulations.gov/docket/USCG-2019-0279/document.*

interference with navigation and other rights and freedoms of other States as provided for this Convention.''

The ACPARS also identified coastal navigation routes and navigation safety corridors of an appropriate width to accommodate safe passage for seagoing towing vessels.[6] As identified in the ACPARS, a Quality Action Team, sponsored by the Coast Guard and the American Waterways Operators (AWO), articulated a need for 9 nautical mile (NM)-wide fairways, where practicable, to account for the long towing cables commonly used by the industry along the Atlantic Coast.

The ACPARS recommended that the Coast Guard consider developing the navigation safety corridors it identifies in Appendix VII—which include navigation safety corridors for deep draft vessels and navigation safety corridors closer to shore for towing vessels—into official shipping safety fairways or other appropriate vessel routing measures.[7] Analysis of the sea space required for vessels to maneuver led to developing marine planning guidelines that were included in the ACPARS and were considered when identifying the navigation safety corridors, in Appendix VII of the final report.

C. Port Approaches and International Entry and Departure Transit Areas PARS Integral to Efficiency of Possible Atlantic Coast Fairways

Recognizing that the ACPARS only analyzed coastal, longshore, and predominantly north-south vessel transit routes along the Atlantic Coast, the Coast Guard announced its intention to study four port approaches and international entry and departure areas to supplement the ACPARS on March 15, 2019, in the **Federal Register** (84 FR 9541).[8] These studies were consolidated into a single report and considered the same access routes that the ACPARS recommended be developed as fairways or other appropriate vessel routing measures, from ports along the Atlantic Coast to the navigation safety corridors. The ports that the Coast Guard considered in these studies are economically important, support military operations, or deemed strategically critical to national defense. On September 9, 2022, the Coast Guard announced the completion and availability of a consolidated PARS report in the **Federal Register** (87 FR 55449) and provided a 90-day comment period for the public (88 FR 15055). After considering comments submitted in response to that notice, the Coast Guard determined that the report was complete as published and announced this finding in the **Federal Register** on August 28, 2023 (88 FR 58591).

D. Results of PARS

The Coast Guard identified four port approach areas that required further study: (1) the Northern New York Bight; (2) the Seacoast of New Jersey including the offshore approaches to Delaware Bay; (3) the approaches to Chesapeake Bay; and (4) the Seacoast of North Carolina, including the offshore approaches to the Cape Fear River and Beaufort Inlet, NC. The purpose of these additional PARS was to identify east and west routes between port approaches on the east coast and these proposed fairways. These PARS were conducted according to the methodology outlined in United States Coast Guard Commandant Instruction (COMDTINST) 16003.2B, *Marine Planning to Operate and Maintain the Marine Transportation System (MTS) and Implement National Policy.*[9]

The recommendations from the ACPARS and the four consolidated PARS in concert with public comments received from the advance notice of proposed rulemaking (ANPRM) were considered for this NPRM (85 FR 37034, June 19, 2020). The following is a summary of the recommendations of each of the PARS:

Port Access Route Study: Northern New York Bight

On January 3, 2022, the Coast Guard announced the completion of the Northern New York Bight PARS in the **Federal Register** (87 FR 107), which is available for viewing and download from the docket at *www.regulations.gov* or the Coast Guard Navigation Center's website at *https://www.navcen.uscg.gov/port-access-route-study-reports.* The First Coast Guard District analyzed available sources of data relevant to this process, including existing and potential traffic patterns, existing regulations, public comments made in response to the draft Northern New York Bight PARS, and other factors. These factors went into considering whether the Coast Guard should revise existing regulations to improve navigation safety in Northern New York Bight due to vessel traffic density, vessel traffic patterns, weather conditions, or navigation challenges in the study area. The results from the study led to the following recommendations:

- Establish modified versions of the fairways proposed in the ANPRM.
- Establish a New Jersey to New York Connector Fairway.
- Establish a Hudson Canyon to Ambrose Southeastern Fairway, a Hudson Canyon to Ambrose Eastern Fairway, and a single Nantucket to Ambrose Fairway.
- Widen the Long Island Fairway that was proposed in the ANPRM.
- Modify the portion of the ANPRM that proposed the Cape Charles to Montauk Point Fairway that crosses the NY Bight by renaming it the Barnegat to Narragansett Fairway and adjusting coordinates to reconcile conflicts with lease areas OCS–A 0544 and OCS–A 0549.
- Establish an Ambrose Anchorage and adjust the Long Island Fairway to mitigate location conflict between the anchorage and fairway.

The Coast Guard proposes to implement these recommendations in this NPRM, with the following exceptions:

- The proposed Hudson Canyon to Ambrose Southeastern Fairway would be extended out to the end of the EEZ (200 NM) to ensure that safe access remains if expansion of offshore energy development continues to the east.
- Reduce the width of the recommended single Nantucket to Ambrose fairway to the northern border of the existing Nantucket to Ambrose Fairway and the southern border of the Ambrose to Nantucket Fairway as defined in 33 CFR 166.500. This will ensure there is sufficient room for safe navigation and the resulting fairways do not conflict with BOEM lease area OCS–A 0522.
- The establishment of the Ambrose Anchorage will not be covered within this rulemaking as it has utility independent of the fairways proposed in this rule. As this recommended anchorage would be within U.S. navigable waters, the First Coast Guard District will evaluate a possible rulemaking under authority in 46 U.S.C. 70006 for an anchorage ground that would be codified in 33 CFR part 110.

In addition, the Coast Guard is proposing precautionary areas where the proposed Barnegat to Narragansett

[6] See pages i and 11, and Appendix VII (page 7) of the ACPARS.

[7] See pages 12 and 16 of the ACPARS.

[8] International Entry and Departure Transit Areas are navigation routes followed by vessels entering or departing from the United States through an international seaport. International entry and departure transit areas connect navigation safety corridors identified in the ACPARS to the outer limit of the U.S. EEZ. Port approaches are navigation routes followed by vessels entering or departing a seaport from or to a primary transit route. Port approaches link seaports to navigation safety corridors identified in the ACPARS.

[9] *https://media.defense.gov/2019/Jul/10/2002155400/-1/-1/0/CI_16003_2B.PDF.* Last accessed March 1, 2023.

Fairway intersects with the Southern and Southeastern approaches to New York. Although these precautionary areas were not recommended in the Northern New York Bight PARS, the Coast Guard expects to see a considerable amount of vessel traffic cross perpendicular to each other at the intersection of the fairway with the traffic lanes. A precautionary area would signify to mariners that they are transiting through an area, ''where ships must navigate with particular caution,'' [10] due to the perpendicular crossing of vessel traffic.

Port Access Route Study: Seacoast of New Jersey Including Offshore Approaches to the Delaware Bay, Delaware

On March 24, 2022, the Coast Guard announced the completion of the Seacoast of New Jersey including offshore approaches to the Delaware Bay, DE PARS in the **Federal Register** (87 FR 16759). The Fifth Coast Guard District analyzed available sources of data relevant to this process, including existing and potential traffic patterns, existing regulations, public comments made in response to the draft PARS, and other factors. These factors went into considering whether the Coast Guard should revise existing regulations to improve navigation safety off the coast of New Jersey and in the approaches to Delaware Bay due to vessel traffic density, vessel traffic patterns, weather conditions, or navigation challenges in the study area. The results from the study led to the following recommendations:

- Establish modified versions of the fairways proposed in the ANPRM.
- Extend the Off Delaware Bay: Eastern and Southeastern approaches to the TSS past the currently leased wind farms in the region, in lieu of establishing the Off Delaware Bay Eastern approach Cutoff Fairway and Off Delaware Bay Southeastern approach Cutoff Fairway.
- Establish additional precautionary areas where a wide variety of vessel traffic converges east of the offshore renewable energy installations (OREIs) under development.
- Establish a new two-way route along the Delaware seacoast for safe transits into and across the mouth of the Delaware Bay by coastwise vessels.
- Separate the Cape Charles to Montauk Fairway into two distinct fairways and rename them to clarify endpoints. Rename the southern portion Cape Charles to Delaware Bay and the northern portion Barnegat to Narragansett, to clarify the divergence of the route as it transits the mouth of the Delaware Bay and across the New York Bight.
- Establish the New Jersey to New York Connector Fairway along the New Jersey coast and up into New York–New Jersey Harbor.
- Establish an offshore fairway anchorage in the area to the east of the Off Delaware Bay: Southeastern approach to meet the needs for safe anchorage areas around OREIs.
- Ensure coordination of fairways and TSSs crossing District boundaries, and widen fairways to 9 NM, where practicable.

The Coast Guard proposes to implement these recommendations in this NPRM, with the following exceptions:

- The recommended reorientation of the St. Lucie to New York: Delaware Bay Connector Fairway, combined with the location of the St. Lucie to New York Fairway, and the recommended offshore Precautionary Area adjacent to the offshore terminus of the Southeastern approach leaves very little open sea space between the connector fairway and the proposed St. Lucie to New York Fairway. The Coast Guard proposes combining the Connector Fairway with the St. Lucie to New York Fairway and widening it in the general vicinity of the approaches to Delaware Bay. This would allow for the additional sea space needed for vessels maneuvering in the area and provide for a more natural approach to the Southeastern approach TSS, as supported by customary traffic patterns and BOEM. This would also provide a larger contiguous area for further offshore wind development.
- The Cape Charles to Montauk Fairway as proposed in the ANPRM conflicted with BOEM lease area OCS–A 0490. The recommendations from the New Jersey PARS reconcile this conflict by providing a fairway near the shore that crosses at the mouth of the Delaware Bay. Public comments received from mariners operating in the Delaware Bay area continued to urge the Coast Guard to consider a route that allows for safe, unobstructed transit seaward of the OREI development projects that connects back to the proposed New Jersey to New York Connector Fairway. The Coast Guard is proposing the Offshore Delaware Bay to New Jersey Connector Fairway to meet this need.
- The Coast Guard concurs with the recommendation for offshore precautionary areas where a wide variety of vessel traffic converges east of the OREI development projects. To account for the proposed combining of the St. Lucie to New York: Delaware Bay Connector Fairway with the St. Lucie to New York Fairway and the proposed Offshore Delaware Bay to New Jersey Connector Fairway, the proposed size and location of the precautionary areas at the convergence point of these fairways with the Eastern and Southeastern approaches have been adjusted to best meet the recommendations of the Fifth Coast Guard District and highlight areas that require particular caution when navigating.
- The Coast Guard is not proposing to establish a new two-way route as recommended in the New Jersey PARS. To account for the recommended orientation of the Cape Charles to Delaware Bay Fairway, the expansion of fairways to 9 NM where practicable, and the dense traffic at the entrance to Delaware Bay, the Coast Guard is proposing an expansion of the current precautionary area. This expansion would encompass the convergence of the proposed Cape Charles to Delaware Bay Fairway and the New Jersey to New York Connector Fairway with the established TSS. Expanding the precautionary area would appropriately caution the mariners transiting in the area while maximizing the freedom of navigation for opposing vessel traffic.
- The Coast Guard proposes to extend the recommended New Jersey to New York Connector Fairway south to connect with the proposed precautionary area expansion at the entrance to Delaware Bay. This expansion would absorb a portion of the established two-way route to the north of the approaches to Delaware Bay. Designating the water surrounding the two-way route would preserve current traffic flow and customary routes in the region, while ensuring ample sea space is available for future offshore energy development.

Port Access Route Study: Approaches to the Chesapeake Bay, Virginia

On October 22, 2021, the Coast Guard announced the completion of the approaches to the Chesapeake Bay, Virginia PARS in the **Federal Register** (86 FR 58684). The Fifth Coast Guard District analyzed available sources of data relevant to this process, including existing and potential traffic patterns, existing regulations, public comments made in response to the draft, approaches to the Chesapeake Bay, Virginia PARS, and other factors. These factors went into considering whether the Coast Guard should revise existing

[10] Definition of *Precautionary Area* under *Elements used in traffic routing systems include: https://www.imo.org/en/OurWork/Safety/Pages/ShipsRouteing.aspx.* Last accessed March 17, 2022.

regulations to improve navigation safety off the coast of Virginia and in the approaches to Chesapeake Bay due to vessel traffic density, vessel traffic patterns, weather conditions, or navigation challenges in the study area. The results from the study led to the following recommendations:

- The IMO's adoption of expanded precautionary area between the Eastern and Southern TSS approaches to Chesapeake Bay.
- Modifications to fairways, as proposed in the ANPRM, to include:
  - Re-orienting the Chesapeake Bay to Delaware Bay Eastern approach Cutoff Fairway to increase available maneuvering space for crossing vessels in the approaches to Delaware Bay, and to allow space for an offshore anchorage in the approach to the Delaware Bay.
  - Re-orienting the Cape Charles to Montauk Point Fairway to route closer to the Delmarva Peninsula.
  - Adding northern and southern connector fairways from the St. Lucie to New York Fairway and the Chesapeake Bay TSS, around the Commercial Virginia Offshore Wind project area, to facilitate safe transit of commercial vessels around future offshore energy installations.

The Coast Guard proposes to incorporate these recommendations in this NPRM, with the following exceptions:

- All proposed fairways would be widened to 9 NM or the maximum sea space practicable based on comments received from the AWO and the tug and tow community.
- The Cape Charles to Montauk Point Fairway would be divided into three distinct sections, as identified in the New Jersey PARS and the Northern New York Bight PARS. The southernmost section would be renamed the Cape Charles to Delaware Bay Fairway.
- The Delaware Bay Connector Fairway would reorient to the east and be combined into the St. Lucie to New York Fairway to better support the vessel traffic flow in and out of the Delaware Bay Southeastern approach.

Port Access Route Study: Seacoast of North Carolina

On May 16, 2022, the Coast Guard announced the completion of the Seacoast of North Carolina Including Approaches to the Cape Fear River and Beaufort Inlet, NC PARS in the **Federal Register** (87 FR 29756). The Fifth Coast Guard District analyzed all available sources of data relevant to this process. These sources of data include existing and potential traffic patterns, existing regulations, public comments made in response to the draft PARS Seacoast of North Carolina, including approaches to the Cape Fear River and Beaufort Inlet, NC, and other factors. These factors went into considering whether the Coast Guard should revise existing regulations to improve navigation safety off the coast of North Carolina including the approaches to the Cape Fear River and Beaufort Inlet, due to vessel traffic density, vessel traffic patterns, weather conditions, or navigation challenges in the study area. The results from the study led to the following recommendations:

- Establish modified versions of the fairways proposed in the ANPRM.
- Establish a precautionary area at the offshore terminus of the TSS in the approaches to the Cape Fear River.
- Establish the Beaufort Inlet Connector, Cape Fear Southeastern Connector, and Cape Fear Southwestern Connector fairways.

The Coast Guard proposes to incorporate these recommendations in this NPRM, with the following exceptions:

- The recommended Cape Fear Southwestern approach Connector Fairway would end at the PARS study area. After consulting with the Seventh Coast Guard District, the Coast Guard proposes extending this fairway past the Cape Romain Call Area to the approaches of Charleston, SC. This extension would ensure vessels transiting along this nearshore route have unobstructed, safe passage to the Cape Fear River as future OREI development continues. This extension will not be affected by future PARS underway in the Southeast Atlantic off the coast of South Carolina. Future rulemakings will be considered after the conclusion of these ongoing studies.[11]
- Combine the portions of the St. Lucie to Chesapeake Bay Nearshore and Offshore fairways from St. Lucie, FL to Cape Hatteras, NC into a single St. Lucie to Hatteras Fairway.

E. Approach to Regulatory Development

The Coast Guard is familiar with the competing demands between preserving unobstructed vessel navigation routes and the spatial needs of offshore development. In the 1940s in the Gulf of Mexico, the advent of increasingly significant numbers of oil installations in the Gulf soon demonstrated the reality of conflict between navigational and resource extraction uses of the same ocean space and the nature of the resulting economic loss and physical danger. Instances of navigational confusion, near-collision, and collisions began to occur.[12] Lessons learned from participating in the process of establishing those fairways in the Gulf taught the Coast Guard to mitigate the impact on vessel operators and offshore developers by releasing the dimensions of the proposed fairways as soon as possible.

However, unlike the mineral-based installations in the Gulf of Mexico that generally consist of a single installation or a tight cluster of 3 to 5 structures encompassing a singular facility, OREI developments are usually comprised of a much larger network of interconnected turbines that encompass a larger contiguous area. Considering the massive geographic scope of this proposed rule, which is partially caused by the large footprints of these OREI developments, the Coast Guard considers it necessary to gather additional information before initiating the NEPA process. The Coast Guard believes it would benefit from the public comment process that follows the publication of a proposed rule, which will help the Coast Guard narrow the range of reasonable alternatives and identify issues that need to be considered in the required environmental review. Therefore, the Coast Guard is publishing this NPRM and the coordinates of the proposed fairways before it starts the environmental analysis that normally accompanies the proposed rule.

Following the close of the comment period for the NPRM, the Coast Guard will consider comments and adjust the proposed rule if needed. Then, the Coast Guard will publish a notice of intent consistent with this NPRM and announce it in the **Federal Register** as required by 40 CFR 1501.9.

The Coast Guard intends to prepare a draft EIS, file it with the U.S. Environmental Protection Agency (EPA), and then add the draft EIS to the docket of this NPRM. The EPA will publish a notice of availability for public review in the **Federal Register**. At that time, the Coast Guard will reopen the public comment period, allowing for the public to comment on the draft EIS. During the comment period, the public will also be able to comment on the alternatives, contents, recommendations, and impact of the analysis in this proposed rule.

[11] Seventh Coast Guard District Southeast Atlantic Coast Port Access Route Study: Port Approaches and International Entry and Departure Transit Areas, found at USCG–2022–0347.

[12] *Ocean Navigation Fairways through Gulf of Mexico ''Oilfields'';* William L. Griffin; Coast and Geodetic Survey, Environmental Science Services Administration, United States Department of Commerce; *https://journals.lib.unb.ca/index.php/ihr/article/download/24035/27820/36382.* Last accessed May 24, 2023.

If the analysis or subsequent comments determines there is a substantive change to the dimensions of the proposed fairways, TSSs, and precautionary areas, the Coast Guard will issue a Supplemental Notice of Proposed Rulemaking (SNPRM) that will detail any departures from the fairways, TSSs, and precautionary areas proposed in this NPRM. If the analyses confirm the viability of the proposed fairways, TSSs, and precautionary areas, we will proceed on to the final rule stage. The Coast Guard will complete the NEPA review process at the time of the final rule. The Coast Guard will issue a final EIS with the final rule and waive the requirement for a 30-day time period between the final EIS and the record of decision as allowed under 40 CFR 1506.11(c)(2).

The Coast Guard met with offshore wind industry group American Clean Power (ACP) on August 22, 2023 to discuss the impact of the proposed fairways on ongoing BOEM leasing activities in the Central Atlantic. ACP proposed a re-orientation of two of the proposed fairways, with the goal of expanding overall acreage available for leasing in the Central Atlantic. The Coast Guard listened to ACP's proposal, explained that there is still ample time to suggest changes to the proposed fairways, and encouraged them to submit their proposal in a comment to this NPRM. The Coast Guard memorialized this meeting in a Memorandum of Record, which is available in the docket. The Coast Guard also participated in a meeting with ACP and the Office of Information and Regulatory Affairs (OIRA), convened by OIRA on October 10, 2023, during review of this rule pursuant to Executive Order 12866, in which ACP shared additional information about their proposed re-orientation.[13] The Coast Guard seeks comments on any suggested reorientations of the fairways, TSSs, and precautionary areas proposed in this NPRM.

F. BOEM Leasing Process

Establishing fairways, TSSs, and precautionary areas is inextricably linked with energy development on the OCS. It is important to note that the Coast Guard works with BOEM during both the leasing and the fairway establishment processes to ensure cooperation among competing uses of the MTS.

Regional Intergovernmental Renewable Energy Task Forces are a key mechanism that BOEM uses to help shape its approach to offshore renewable energy development. These task forces consist of representatives from federally recognized Tribes, Federal agencies, States, and local governments, including the Coast Guard. BOEM's task forces serve as forums to coordinate planning; gather data; solicit feedback; educate about BOEM's processes, permitting, and statutory requirements; and exchange scientific and other information. BOEM's task forces work in parallel and are integrated into the more formal area identification and competitive leasing processes described below, with a particular focus on early identification of potential conflicting uses of the OCS and strategies for balancing the needs of all sea and seabed users. BOEM is currently actively engaged with several regional task forces in the Atlantic, including the Central Atlantic, Gulf of Maine, New York Bight, and Carolina Long Bay.

The current process by which BOEM issues competitive leases and grants is defined in 30 CFR part 585, subpart B. Typically, BOEM begins the competitive leasing process by publishing in the **Federal Register** a request for interest (RFI) in leasing all or part of a region of the OCS for renewable energy activities. The RFI is followed by a subsequent **Federal Register** publication calling for information and nominations (''Call''). The Call requests that developers explicitly nominate areas on the OCS for potential commercial OREI development, in addition to soliciting general information to further inform BOEM's understanding of ocean uses in the area. BOEM uses the feedback from the RFI and the Call to inform marine spatial models evaluating the area's potential suitability for offshore wind energy development, and to assess competitive interest in bidding for specified OCS areas. After BOEM identifies potential areas on the OCS for OREI development, BOEM then evaluates the potential impacts of leasing those areas on the human, marine, and coastal environments under the OCS Lands Act[14] and subsequently consults with Federal agencies and affected States regarding the requirements of other potentially applicable Federal statutes.[15]

Throughout BOEM's competitive leasing process as defined in 30 CFR part 585, BOEM engages with the applicable task force and directly with other Federal agencies, including the Coast Guard, whom BOEM relies on to assist with identifying potential maritime conflicts. This engagement is iterative throughout the development of commercial leases from the RFI to the competitive lease sale because the interests and needs of both OREI and the maritime industry, as well as States and the Federal agencies, are dynamic and evolving over time. Codifying traditional shipping lanes into fairways, TSSs, and precautionary areas would have the effect of providing relevant stakeholders with pertinent information earlier in the competitive lease process.

V. Discussion of ANPRM Comments

On June 19, 2020, the Coast Guard published an ANPRM announcing the possible establishment of fairways along the Atlantic Coast of the United States identified in the ACPARS.[16] To engage the public early and often throughout this complex and dynamic process, the ANPRM solicited comments on the establishment of such fairways and presented the public with 15 questions. The Coast Guard received 24 comment submissions addressing the potential fairways identified in the ANPRM and answering these questions. The questions were focused on the necessity of the proposed fairways, the dimensions of the proposed fairways, and the potential impacts of the fairways to industry, the environment, or other affected populations.

After a thorough review of comments received, the Coast Guard summarized the issues raised. The Coast Guard then organized the issues by subject matter and their responses, which are presented below.

A. BOEM Leases

The Coast Guard received many comments expressing concern that the proposed fairways identified in the ANPRM would infringe on existing leases that stakeholders hold with BOEM and a comment that fairway and lease overlaps could result in substantive economic impacts on OREI development. The comments urged the Coast Guard to avoid routing fairways through leaseholds, specifically those leases off the coasts of the Maryland, Virginia, and Kitty Hawk, North Carolina. BOEM and other stakeholders alerted the Coast Guard of the potential overlap between the fairways described in the ANPRM and the aforementioned leases. In response to these comments, the Coast Guard has adjusted the fairways proposed in this NPRM to eliminate all overlaps, thereby addressing the concern of potential

[13] For further information on this meeting, please visit *https://www.reginfo.gov/public/do/viewEO12866Meeting?viewRule=false&rin=1625-AC57&meetingId=225623&acronym=1625-DHS/USCG* (last visited on Dec. 13, 2023).

[14] 43 U.S.C. 1331 *et seq.*

[16] 85 FR 37034, June 19, 2020.

economic impacts on OREI development. The new proposed fairways adjustments are as follows:

The portion of the proposed Cape Charles to Montauk Fairway that was described in the ANPRM ran through lease area OCS–A 0490 (U.S. Wind). This fairway is now proposed to be rerouted off the coast of Ocean City, MD to the North to intersect with the Delaware Bay Precautionary Area. This adjustment moves the closest point between the proposed fairway and the U.S. Wind's lease area to approximately 3 NM. This segment was renamed the Cape Charles to Delaware Bay Fairway.

The portion of the Cape Charles to Montauk Fairway that was proposed in the ANPRM to run along the New Jersey Coast conflicted with lease areas OCS–A 0498 (Ocean Wind) and 0499 (Atlantic Shores). Note that since publication of the ANPRM, BOEM has split OCS–A 0498 into lease areas 0498 and 0532, and OCS–A 0499 was split into 0499 and 0549. This portion of the fairway overlapped as much as 2 NM into the lease areas. In response to this overlap, the fairway was moved towards the shore to reconcile the conflicts. The border of the fairway would now abut the lease areas, but since the total fairway width includes the recommended buffer zones, additional setbacks are not necessary. Developers would be able to build up to the border of their respective leases as long as no overhang of appurtenances extends out of the lease area into the fairway. This segment of the proposed Cape Charles to Montauk Fairway was extended up into New York and renamed the New Jersey to New York Connector Fairway.

The portion of the proposed St. Lucie to Chesapeake Bay Offshore Fairway that was described in the ANPRM conflicted with lease area OCS–A 0508 (Kitty Hawk) by approximately 67 yards. This portion of the fairway was moved that distance toward shore. The border of the proposed fairway would now abut the Kitty Hawk lease area, but no additional setbacks are necessary. The developer would be able to build up to the border of the lease as long as no overhang of appurtenances extends out of the lease area into the fairway. This segment of the proposed St. Lucie to Chesapeake Bay Offshore Fairway has been renamed the Hatteras to Chesapeake Bay Fairway.

A portion of the proposed Cape Charles to Montauk Fairway from Barnegat, NJ to Narragansett, RI that was described in the ANPRM overlapped with the northernmost tip of the Atlantic Shores lease (now OCS–A 0549). Additionally, since the ANPRM was published, BOEM auctioned six additional lease areas in the New York Bight Area. The fairway proposed in the ANPRM would have intersected with OCS–A 0544 (Hudson North). The proposed adjustments and reorienting of this portion of the fairway—now the Barnegat to Narragansett Fairway—removed any overlap and thus reconciled any potential conflict between the proposed fairway and lease areas. The border of the fairway would abut lease area OCS–A 0544, but no additional setbacks are necessary. The developer would be able to build up to the border of the lease as long as no overhang of appurtenances extends out of the lease area into the fairway.

The Coast Guard will continue to work with BOEM throughout this rulemaking to ensure that any potential conflicts are identified and resolved. The Coast Guard believes that the establishment of consistent and clearly defined fairways will further development on the OCS going forward.

B. Fairway Width

The Coast Guard received many comments asking about the width of proposed fairways, buffer zones around proposed fairways, and whether the width of proposed fairways will include these buffer zones. The proposed fairways vary in width depending on location and may be adjusted before the publication of a potential final rule. The dimensions for the fairways, TSSs, and precautionary areas proposed in this NPRM are listed in tables 1 through 33 and the proposed regulatory text.

Buffer zones are included within the width of the proposed fairways. The Coast Guard designed the proposed fairways' dimensions to accommodate the vessel traffic needs for a given reach of the Atlantic Coast. Accordingly, the design features for the segments of the fairways proposed in this NPRM vary in width and include buffer zones of up to 2 NM to ensure efficient and safe passage of opposing traffic streams.

The Coast Guard also received a comment that inquired whether Post-Panamax vessels would be considered in this NPRM. Panamax vessels were built to the maximum size that the Panama Canal could accommodate at the time. However, the Panama Canal was expanded in 2016, thereby leading to an even larger class of vessels known as Post-Panamax. The Coast Guard considered Post-Panamax vessels in both the ACPARS and in other related PARS, which are publicly available. As a result, Post-Panamax vessels have been considered and will be able to use the fairways in the same way as any other ship.[17]

Some commenters asked whether different vessel types would use different types of fairways. For example, one commenter asked if deep-draft vessels would have separate fairways from tug and barge vessels. While the Coast Guard considered the historical routes for the different types of vessels when it determined the location of the fairways along the Atlantic Coast, the Coast Guard does not designate fairways for specific vessel types. Therefore, the proposed fairways would be accessible to any type of vessel.

There were several comments on the ANPRM that recommended specific routes for proposed fairways to take. For example, one commenter suggested adding a fairway to route traffic away from the proposed New York Bight WEA. The Coast Guard considered each of these specific concerns in the PARS described in section IV.D., *Results of PARS,* and has included these recommendations in this NPRM.

C. Marine Mammals

The Coast Guard received several comments about the effect of the proposed fairways on marine mammals, particularly North Atlantic right whales. The Coast Guard will evaluate the potential for interactions with a variety of species, including the North Atlantic right whale, and will coordinate with the responsible Federal resource agency or agencies pursuant to the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA).

The data collection regarding potential for interactions with marine mammals is currently in progress and the analysis will be initiated as soon as possible, along with the necessary interagency coordination, and the Coast Guard will complete associated consultations during the regulatory development process before promulgating a final rule.

The Coast Guard will evaluate the potential environmental effects associated with this proposed rule and will provide documentation for public review and comment in the docket. For more information on the docket, *see* the Public Participation and Request for Comments section of this preamble. The Coast Guard will announce the availability of this material in the **Federal Register**. More information on the Coast Guard's environmental

[17] See page 18 of Appendix VI of the ACPARS Final Report, pages 15 through 16 of the Chesapeake Bay PARS Final Report, and page 2 of the Cape Fear River PARS Report. These reports are available online at *https://www.navcen.uscg.gov/port-access-route-study-reports.*

analysis for this proposed rule can be found in section VII.M. *Environment.*

D. Competing Uses

The Coast Guard received a few comments about the proposed fairways' effects on existing water-dependent uses of the study area, including commercial and recreational fishing, scuba diving, and other recreational activities, including those competing uses in conjunction with established artificial reefs.

Section 166.105 of title 33 of the CFR defines a shipping safety fairway as ''a lane or corridor in which no artificial island or fixed structure, whether temporary or permanent, will be permitted.'' The Coast Guard does not expect competing uses, such as fishing, scuba diving, or other similar activities, whether commercial or recreational, to be affected by the proposed fairways.

In 33 CFR 64.06, structures are defined as ''any fixed or floating obstruction, intentionally placed in the water, which may interfere with or restrict marine navigation.'' This section also defines an obstruction as ''anything that restricts, endangers, or interferes with navigation.'' There are currently several artificial reefs along the Atlantic Coast between Florida and Rhode Island located within the proposed fairways. The Coast Guard reviewed and considered these artificial reefs during the PARS. The studies found that the artificial reefs do not interfere or restrict marine navigation, and therefore are not considered obstructions or structures for the purpose of this rulemaking. Additionally, the proposed fairways would be in locations where a majority of vessel traffic currently transit and do not impact use of the artificial reefs. Because the traditional activities associated with the artificial reefs, such as recreational diving and fishing would not be prohibited within a fairway and these activities already safely coexist with the shipping in the proposed fairway locations, these activities would not be impacted.

One commenter asked whether the proposed fairways would have a negative impact on U.S. Navy (USN) and U.S. Army Corps of Engineers (USACE) activities. While conducting the PARS, the Coast Guard regularly engaged with the USN and USACE and discussed proposals for fairways, TSSs, and precautionary areas. Both agencies indicated they do not anticipate any impact to operations.

One commenter asked if underwater cables had been considered and if they would affect the proposed fairways. The Coast Guard has considered all known underwater cables and their potential impacts on the proposed fairways, TSS, and precautionary areas. None were found to restrict, endanger, or interfere with navigation. The Coast Guard works as a cooperating agency with BOEM for OREI development and with the USN and U.S. Department of Defense for submarine cables used for communications, and will continue to ensure that any future underwater cables do not impact safe navigation and that vessels avoid harm to underwater cables.

E. Rulemaking Process

The Coast Guard received a few comments regarding this rulemaking process. One commenter asked whether the Coast Guard plans to hold a public meeting to discuss this rulemaking. While the Coast Guard does not, at this time, plan to hold a public meeting, it is open to the idea and may do so if it determines from public comments that a meeting would be helpful. If the Coast Guard decides to hold a public meeting to discuss this rulemaking it will publish a document in the **Federal Register** announcing any public meetings.

Some commenters asked how coastal States would be involved with this rulemaking. Since establishing fairways, TSSs, and precautionary areas constitutes a Federal action proposed within or outside the coastal zone that could affect the use of land or water resources or natural resources of coastal States, the Coast Guard will review the potential for this action to result in reasonably foreseeable effects on those resources. Within this process, the Coast Guard will engage the coastal States, as required by 33 U.S.C. 70003(c)(2), to better understand the potential impact of this proposed rule. The Coast Guard will use information collected from the ANPRM, the ACPARS, the four PARS consolidated with the ACPARS, the involved States' coastal management programs, comments received in response to this NPRM, and commercially available information to determine whether the Coast Guard's proposed action would result in coastal effects.

The Coast Guard will coordinate with each of the involved coastal States pursuant to the Federal consistency requirements and seek a consistency determination or a negative determination, as appropriate, prior to publishing a final rule.[18] During this process, the Coast Guard's environmental specialists will make a preliminary determination with regard to the proposed rule's impact on any land or water use or natural resource of an affected State's coastal zone (such effects are also referred to as ''coastal effects'' or ''effects on any coastal use or resource'').[19] If the proposed action is consistent with the enforceable coastal policies of the State, and there is no reasonably foreseeable impact on coastal lands, uses, and the health of natural resources, the Coast Guard will submit a negative determination to the impacted State. If there is such a reasonably foreseeable impact on the health of those coastal resources, the Coast Guard will prepare and submit a consistency determination to the affected State, which requires a lengthy and detailed analysis of any potential impacts to lands, uses, and resources that are covered under that State's coastal management program. In either case, each State must concur with the Coast Guard's determination before the rulemaking process can proceed to a final decision. If a State concurs with a negative determination, then the Coast Guard can proceed in the most efficient manner possible under the Coastal Zone Management Act (CZMA) (16 U.S.C. 1451–1465). The Coast Guard would be able to continue the rulemaking process without preparing a full CZMA consistency package and associated coordination with the State entity that administers that State's coastal management program. Coordinating with this State entity may also require coordinating with the National Oceanic and Atmospheric Administration's National Ocean Service.

If a consistency determination is required, the Coast Guard will demonstrate how it arrived at its preliminary determination that the Atlantic Fairways scheme is consistent to the maximum extent practicable with the enforceable policies unique to each State's coastal management program. The Coast Guard will finalize its coordination strategy with the involved coastal States in due course and may consider taking a regional approach for meeting its Federal consistency requirements. In such a case, the Coast Guard would consider, at a minimum, the common denominator of the involved States' coastal management policies, and thereby address the different States' policies with one discussion and determination. Any remaining items, such as unique issues or items held in common with a subset of States, would be addressed in an accompanying narrative. If the Coast Guard does not take this approach, the Coast Guard will issue consistency determinations or negative

[18] See 15 CFR part 930.

[19] These terms are defined in 15 CFR 930.11(g).

determinations to each State pursuant to 15 CFR 930.39, requesting their concurrence. This process will use this rulemaking's docket as an interface for documents subject to public review, meaning anyone who wants to comment on this process will be able to find all the documents associated with it easily at *https://www.regulations.gov/docket/USCG-2019-0279.* Items that are not subject to public review would be communicated directly with the State officials that are responsible for administering that State's coastal consistency process. If a consistency determination is required, the Coast Guard will publish a document in the **Federal Register** announcing that one is necessary and explaining the next steps.

F. ACPARS Methodology

The Coast Guard received a few comments that were critical of the ACPARS and the processes used to determine the recommended fairways. The Coast Guard published the interim ACPARS report in the **Federal Register** on September 11, 2012 (77 FR 55781) and requested public comments. The Coast Guard published a document responding to public comments critiquing the ACPARS in the **Federal Register** on April 5, 2017 (82 FR 16510). The final version of the ACPARS report was published in the **Federal Register** on March 14, 2016 (81 FR 13307). After reviewing the comments received, the Coast Guard determined that it was unnecessary to revise the final report and so, the Coast Guard is relying on that study as expanded in the Consolidated Port Approaches Port Access Route Studies (CPAPARS) to propose these fairways as directed under 46 U.S.C. 70003(c)(1).

Some commenters asked about the possibility of vessel traffic density increasing because of the proposed fairways. The proposed fairways are located in areas that have been customary shipping routes, and therefore any impact on vessel traffic behavior is expected to be minimal. Establishing fairways, TSSs, and precautionary areas should serve to maintain the status quo regarding vessel traffic behavior. The locations of the proposed fairways were determined based on approximately 95 percent of the vessel traffic traveling in the same or opposing directions. The width of the fairways was then determined considering the total amount of possible traffic, accounting for the potential increase in traffic density. By designating these sections of the waterways as fairways, safe passage around offshore energy installations can be available for vessels, and the number of vessels needing to reroute around these installations would be minimized.

VI. Discussion of Proposed Rule

The Coast Guard is proposing to codify historically traveled shipping routes into fairways, as defined by 33 CFR 166.105, and TSSs and precautionary areas, as defined by 33 CFR 167.5. This proposed rule is intended to facilitate offshore development, preserve traditional shipping routes, protect maritime commerce, and maintain navigational safety amidst growing offshore activity along the Atlantic Coast.

Designating these portions of the waterways as fairways, TSSs, and precautionary areas is intended to maintain traditional shipping routes and continue to ensure that these navigation lanes remain free of fixed structures. This NPRM does not mandate that any vessel(s) use the newly established fairways; therefore, vessels would continue to traverse U.S. jurisdictional waters without restriction and use the most efficient route(s) to their destinations.

The Coast Guard recognizes the need for fairways to address increasing OCS activity and potential future trends in offshore energy development along the Atlantic Coast. The Coast Guard has a duty to ensure that vessels have a safe, unimpeded, and efficient route from sea to port and, for developers, from port to the lease site and back. Without promulgating this rule, BOEM could propose to establish energy development facilities (wind turbines and other fixed structures) that could be in historical maritime vessel routes, conflicting with existing maritime uses and users. With that in mind, the Coast Guard continues to engage with BOEM during the development of this NPRM, throughout the course of the PARS, and during the offshore leasing development processes to ensure that proposed offshore energy lease areas and proposed fairways, TSSs, and precautionary areas coexist without interference.

A. Proposed Fairways

In this NPRM, the Coast Guard is proposing 18 fairways and 1 fairway anchorage. These fairways are based on the fairways described in the ANPRM and have been further refined based on public comments, consultation with other Federal Government agencies, and the recommendations from the PARS. Approximate fairway widths and reciprocal courses are provided. A chart of the proposed fairways is available for review in the docket.

The proposed Long Island Fairway would be approximately 105 NM long, in an approximate direction of 066 degrees true (°T)/246 °T and varies in width from approximately 3 NM on the approaches to New York to 8 NM at its widest point. This proposed size would include the customary routes taken by vessels between the New York-New Jersey Harbor and the approaches to Narragansett Bay. This proposed fairway would be in an area enclosed by the following rhumb lines joining points (World Geodetic System 1984 (WGS 84) datum):

TABLE 1—THE PROPOSED LONG ISLAND FAIRWAY

Latitude	Longitude
40°29′15″ N	73°32′03″ W
40°31′02″ N	73°35′17″ W
40°30′15″ N	73°41′25″ W
40°31′33″ N	73°42′23″ W
40°35′59″ N	73°11′39″ W
41°06′31″ N	71°30′24″ W
41°02′51″ N	71°29′06″ W
40°48′05″ N	71°59′27″ W
40°32′38″ N	72°50′50″ W
40°32′12″ N	73°11′28″ W

The proposed Nantucket to Ambrose Fairway would be approximately 150 NM long in an approximate direction of 090 °T/270 °T, 15 NM wide, and would encapsulate the current Nantucket to Ambrose and Ambrose to Nantucket fairways into one single fairway. It would cross the Barnegat to Narragansett Fairway. This proposed fairway would be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 2—THE PROPOSED NANTUCKET TO AMBROSE FAIRWAY

Latitude	Longitude
40°32′20″ N	73°04′55″ W
40°30′59″ N	72°57′39″ W
40°34′07″ N	70°19′26″ W
40°35′41″ N	70°14′02″ W
40°22′38″ N	70°13′34″ W
40°24′07″ N	70°19′03″ W
40°20′57″ N	72°58′22″ W
40°19′20″ N	73°04′56″ W

The proposed Hudson Canyone to Ambrose Eastern Fairway would be approximately 35 NM long in an approximate direction of 090 °T/270 °T, 5 NM wide, and would extend approximately 30 NM past BOEM lease OCS–A 0537. This proposed fairway would support offshore vessel transits from Europe to New York-New Jersey Harbor via the Off New York: Southeastern approach (33 CFR 167.154). This proposed fairway would

be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 3—THE PROPOSED HUDSON CANYON TO AMBROSE EASTERN FAIRWAY

Latitude	Longitude
40°08′25″ N	72°38′18″ W
40°08′25″ N	72°27′34″ W
40°08′25″ N	72°00′00″ W
40°03′25″ N	72°00′00″ W
40°03′25″ N	72°27′34″ W
40°03′25″ N	72°53′15″ W

The proposed Hudson Canyon to Ambrose Southeastern approach Fairway would be 177 NM long in an approximate direction of 315 °T/135 °T, 15 NM wide, and would extend from the proposed precautionary area at the offshore terminus of the Off New York: Southeastern approach to the offshore boundary of the U.S. EEZ. Because BOEM's leasing authority for the OCS extends to the outer boundary of the U.S. EEZ, the proposed Hudson Canyon to Ambrose Southeastern approach Fairway would designate the customary offshore route to New York-New Jersey Harbor via the Off New York: Southeastern approach. This proposed fairway would be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 4—THE PROPOSED HUDSON CANYON TO AMBROSE SOUTHEASTERN APPROACH FAIRWAY

Latitude	Longitude
40°01′32″ N	72°58′53″ W
40°00′20″ N	72°56′59″ W
39°42′19″ N	72°34′32″ W
39°24′19″ N	72°12′12″ W
39°06′19″ N	71°49′57″ W
38°48′19″ N	71°27′49″ W
38°30′19″ N	71°05′45″ W
38°12′19″ N	70°43′48″ W
37°54′40″ N	70°22′22″ W
37°45′55″ N	70°38′53″ W
38°01′33″ N	70°57′56″ W
38°19′33″ N	71°19′57″ W
38°37′33″ N	71°42′04″ W
38°55′33″ N	72°04′17″ W
39°13′33″ N	72°26′35″ W
39°31′33″ N	72°48′59″ W
39°49′33″ N	73°11′28″ W
39°55′14″ N	73°17′43″ W

The proposed Barnegat to Narragansett Fairway would be approximately 135 NM long in an approximate direction of 063 °T/243 °T, between 9 and 35 NM wide, and include the customary route taken by vessels across the New York Bight. The proposed fairway would have a 7-degree turn (063 °T/243 °T to 056 °T/236 °T) that is located between the Off New York: Eastern approach (33 CFR 167.153) and the Off New York: Southeastern approach. The proposed Barnegat to Narragansett Fairway would widen beyond 9 NM in this area to account for the additional sea space needed for vessels to maneuver prior to crossing the Nantucket to Ambrose Fairway. This proposed fairway would be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 5—THE PROPOSED BARNEGAT TO NARRAGANSETT FAIRWAY

Latitude	Longitude
39°53′10″ N	73°53′21″ W
39°57′38″ N	73°40′25″ W
40°02′24″ N	73°26′33″ W
40°09′1″ N	73°10′49″ W
40°09′37″ N	73°06′52″ W
40°48′5″ N	71°59′27″ W
41°02′51″ N	71°29′6″ W
41°02′11″ N	71°18′13″ W
40°20′32″ N	72°02′02″ W
40°01′32″ N	72°58′53″ W
39°55′14″ N	73°17′43″ W
39°48′21″ N	73°38′17″ W
39°42′55″ N	73°54′32″ W

The proposed New Jersey to New York Connector Fairway would be approximately 105 NM long, 4 NM wide, and include the customary route taken by vessels along the New Jersey coast between New York-New Jersey Harbor and the entrance to Delaware Bay. Because of the limited available sea space, this proposed fairway could not be widened to a desired 9 NM. The proposed New Jersey to New York Connector Fairway would be bounded to the west (shoreside) within 3 NM from shore, to designate the available sea space within the OCS as a fairway to prohibit future construction or development, and to preserve safe water for vessel navigation. This proposed fairway would be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 6—THE PROPOSED NEW JERSEY TO NEW YORK CONNECTOR FAIRWAY

Latitude	Longitude
38°48′54″ N	74°47′17″ W
38°48′19″ N	74°55′24″ W
39°29′42″ N	74°12′28″ W
39°47′36″ N	74°00′38″ W
40°22′17″ N	73°55′58″ W
40°20′30″ N	73°49′38″ W
39°52′58″ N	73°53′22″ W
39°42′55″ N	73°54′32″ W
39°41′42″ N	73°58′10″ W

TABLE 6—THE PROPOSED NEW JERSEY TO NEW YORK CONNECTOR FAIRWAY—Continued

Latitude	Longitude
39°35′15″ N	74°02′59″ W
39°27′30″ N	74°08′07″ W
39°06′13″ N	74°30′01″ W

The proposed St. Lucie to New York Fairway would be approximately 790 NM long in an approximate direction of 030 °T/210 °T until off Cape Hatteras, NC, then it would turn to the north to approximately 003 °T/183 °T. It would be between 9 and 20 NM wide. It would include the customary route taken by vessels transiting offshore between the Port of Miami, FL; Port Everglades, FL; the Port of Virginia; the Port of Baltimore, MD; the Port of Philadelphia, PA; the Port of Wilmington, DE; and the Port of New York and New Jersey. The proposed St. Lucie to New York Fairway would measure 9 NM wide between Miami, FL and the approaches to Chesapeake Bay, where it would widen to 20 NM to account for the high vessel traffic density on the approaches to Chesapeake Bay, Delaware Bay, and New York. This proposed fairway would be an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 7—THE PROPOSED ST. LUCIE TO NEW YORK FAIRWAY

Latitude	Longitude
36°17′51″ N	74°26′02″ W
35°17′41″ N	74°40′46″ W
34°33′21″ N	74°52′32″ W
33°57′08″ N	75°20′14″ W
32°49′16″ N	76°06′42″ W
31°37′49″ N	76°51′25″ W
29°36′06″ N	78°06′19″ W
27°46′56″ N	79°12′18″ W
27°51′00″ N	79°21′20″ W
29°40′20″ N	78°15′25″ W
31°42′04″ N	77°00′43″ W
32°53′37″ N	76°16′03″ W
34°01′48″ N	75°29′30″ W
34°36′50″ N	75°02′46″ W
35°19′31″ N	74°51′32″ W
36°07′03″ N	74°39′60″ W
37°59′00″ N	74°25′56″ W
38°18′34″ N	74°18′21″ W
38°41′08″ N	74°09′36″ W
38°52′59″ N	74°05′01″ W
39°15′49″ N	73°56′09″ W
39°42′55″ N	73°54′32″ W
39°45′42″ N	73°46′12″ W
39°48′21″ N	73°38′17″ W
39°45′42″ N	73°37′40″ W
39°11′38″ N	73°40′30″ W

The proposed Offshore Delaware Bay to New Jersey Connector Fairway would be approximately 43 NM long in an approximate direction of 355 °T/175 °T,

4 NM wide, and would include a customary route taken by vessels between New York-New Jersey Harbor and Chesapeake Bay. The proposed Offshore Delaware Bay to New Jersey Connector Fairway provides vessels an offshore route connecting the proposed Chesapeake Bay to Delaware Bay Eastern Approach Cutoff Fairway to the proposed New Jersey to New York Connector Fairway around the U.S. Wind, Skipjack, and Garden State Offshore Energy project lease areas. This proposed fairway would be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 8—THE PROPOSED OFFSHORE DELAWARE BAY TO NEW JERSEY CONNECTOR FAIRWAY

Latitude	Longitude
38°19′43″ N	74°30′38″ W
38°44′27″ N	74°33′19″ W
38°49′48″ N	74°33′54″ W
39°01′14″ N	74°35′09″ W
39°06′13″ N	74°30′01″ W
39°01′41″ N	74°30′03″ W
38°49′47″ N	74°28′44″ W
38°44′26″ N	74°28′09″ W
38°21′04″ N	74°25′35″ W

The proposed Delaware Bay Fairway Anchorage would be a 51-square mile area adjacent and contiguous to the western boundary of the Offshore Delaware Bay to New Jersey Connector Fairway. Deep draft vessels already use this area between the Southeastern approach proposed extension and the Offshore Delaware Bay to New Jersey Connector Fairway as an informal anchorage for anchoring and bunkering. Therefore, the proposed Delaware Bay Fairway Anchorage would meet current and future needs for safe anchorage in the region as offshore development continues. This proposed fairway anchorage would be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 9—THE PROPOSED DELAWARE BAY FAIRWAY ANCHORAGE

Latitude	Longitude
38°31′23″ N	74°35′39″ W
38°32′23″ N	74°32′01″ W
38°19′43″ N	74°30′38″ W
38°28′48″ N	74°39′18″ W

The proposed Cape Charles to Delaware Bay Fairway would be approximately 105 NM long in an approximate direction along the Delmarva Peninsula, mainly 9 NM wide, and would include customary routes for vessels between the approaches to Chesapeake Bay and Delaware Bay. The width of the proposed Cape Charles to Delaware Bay Fairway would gradually decrease to 4 NM over the final 40-NM stretch to the precautionary area at the entrance to Delaware Bay. This proposed fairway would be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 10—THE PROPOSED CAPE CHARLES TO DELAWARE BAY FAIRWAY

Latitude	Longitude
38°31′31″ N	74°55′28″ W
37°53′08″ N	74°56′45″ W
36°59′41″ N	75°36′05″ W
37°01′39″ N	75°47′38″ W
38°01′17″ N	75°04′15″ W
38°42′50″ N	74°58′56″ W
38°37′15″ N	74°54′09″ W

The proposed Chesapeake Bay to Delaware Bay: Eastern approach Cutoff Fairway would be approximately 70 NM long in an approximate direction of 043 °T/223 °T, is 9 NM wide, and would include a customary route taken by vessels between the approaches to Chesapeake Bay and the approaches to Delaware Bay. This proposed fairway would be an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 11—THE PROPOSED CHESAPEAKE BAY TO DELAWARE BAY: EASTERN APPROACH CUTOFF FAIRWAY

Latitude	Longitude
37°16′48″ N	75°23′35″ W
38°04′32″ N	74°34′56″ W
37°58′60″ N	74°25′56″ W
37°08′44″ N	75°17′17″ W
37°08′43″ N	75°29′30″ W

The proposed Chesapeake Bay approach Connector-North Fairway would be approximately 48 NM long in an approximate direction of 090 °T/270 °T, 9 NM wide, and would include customary routes taken by vessels from the high seas to the Chesapeake Bay: Southern approach (33 CFR 167.203). The Chesapeake Bay approach Connector—North Fairway would also preserve the deep-water slough connecting the deep-water route within the Southern approach—which is recommended for vessels with drafts greater than 13.5 meters (45 feet) and Naval aircraft carriers—to the high seas. This proposed fairway would be an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 12—THE PROPOSED CHESAPEAKE BAY APPROACH CONNECTOR—NORTH FAIRWAY

Latitude	Longitude
37°08′43″ N	075°29′30″ W
37°08′50″ N	74°32′14″ W
36°59′49″ N	74°33′22″ W
36°59′42″ N	075°27′31″ W
36°57′56″ N	075°29′59″ W
36°49′18″ N	075°29′56″ W
36°49′18″ N	075°35′28″ W
36°59′41″ N	075°36′05″ W

The proposed Chesapeake Bay approach Connector—South Fairway would be approximately 48 NM long in an approximate direction of 090 °T/270 °T, 9 NM wide, and would include customary routes for vessels from the high seas to the Chesapeake Bay: Southern approach. This proposed fairway would be an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 13—THE PROPOSED CHESAPEAKE BAY APPROACH CONNECTOR—SOUTH FAIRWAY

Latitude	Longitude
36°49′18″ N	75°35′28″ W
36°49′18″ N	74°34′41″ W
36°40′20″ N	74°35′49″ W
36°40′17″ N	75°33′31″ W
36°43′51″ N	75°36′43″ W

The proposed Hatteras to Chesapeake Bay Offshore Fairway would be approximately 103 NM long, in an approximate direction of 342 °T/162 °T, and approximately 6 NM wide. It would include customary routes for vessels transiting between the Port of Miami, FL; Port Everglades, FL; Port Canaveral, FL; the Port of Jacksonville, FL; Kings Bay, GA; the Port of Brunswick, GA; the Port of Savannah, GA; Charleston, SC; the Port of Morehead City, NC; the Port of Wilmington, NC; and the Port of Virginia.

The proposed Hatteras to Chesapeake Bay Offshore Fairway was originally part of the St. Lucie to Chesapeake Offshore Fairway, discussed in the ANPRM, and remains unaltered. Combining this proposed fairway with the Hatteras to Chesapeake Bay Offshore Fairway into a single fairway 9 NM wide was considered, but a consistent single fairway of that width could not be supported based on USN activity and OREI development in the area. Thus, this and the nearshore portion of the St. Lucie to Chesapeake Bay navigation corridor remain as separate proposals. This proposed fairway would be in an

area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 14—THE PROPOSED HATTERAS TO CHESAPEAKE BAY OFFSHORE FAIRWAY

Latitude	Longitude
35°06′32″ N	74°58′03″ W
35°07′36″ N	75°06′05″ W
35°59′33″ N	75°06′58″ W
36°09′53″ N	75°16′11″ W
36°21′49″ N	75°26′54″ W
36°34′42″ N	75°38′28″ W
36°41′58″ N	75°41′36″ W
36°43′51″ N	75°36′43″ W
36°25′19″ N	75°20′05″ W
36°13′49″ N	75°09′47″ W
36°01′44″ N	74°59′01″ W

The proposed Hatteras to Chesapeake Bay Nearshore Fairway would be approximately 97 NM long, in an approximate direction of 342 °T/162 °T, and approximately 7 NM wide. It would include customary routes for vessels transiting between the Port of Miami, FL; Port Everglades, FL; Port Canaveral, FL; the Port of Jacksonville, FL; Kings Bay, GA; the Port of Brunswick, GA; the Port of Savannah, GA; Charleston, SC; the Port of Morehead City, NC; the Port of Wilmington, NC; and the Port of Virginia.

The proposed Hatteras to Chesapeake Bay Nearshore Fairway was originally part of the St. Lucie to Chesapeake Offshore Fairway, which was discussed in the ANPRM. Combining this proposed fairway with the Hatteras to Chesapeake Bay Offshore Fairway into a single fairway 9 NM wide was considered, but a consistent single fairway of that width could not be supported based on USN activity and OREI development in the area. Thus, this and the offshore portion of the St. Lucie to Chesapeake Bay navigation corridor remain as separate proposals. The proposed width of this fairway, however, has been increased from approximately 5 NM to approximately 7 NM to better support the maneuverability of vessels and to make better use of available sea space. This proposed fairway would be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 15—THE PROPOSED HATTERAS TO CHESAPEAKE BAY NEARSHORE FAIRWAY

Latitude	Longitude
35°09′05″ N	75°17′23″ W
35°35′43″ N	75°19′23″ W
36°35′18″ N	75°43′45″ W
36°44′43″ N	75°47′08″ W

TABLE 15—THE PROPOSED HATTERAS TO CHESAPEAKE BAY NEARSHORE FAIRWAY—Continued

Latitude	Longitude
36°41′58″ N	75°41′36″ W
36°34′42″ N	75°38′28″ W
36°26′19″ N	75°30′57″ W
35°37′03″ N	75°10′53″ W
35°07′57″ N	75°08′45″ W

The proposed St. Lucie to Hatteras Fairway would be approximately 600 NM long, would follow the direction of the coastline from St. Lucie, FL to Cape Hatteras, NC, and would be 13 NM wide. This fairway would include customary routes for vessels transiting between the Port of Miami, FL; Port Everglades, FL; Port Canaveral, FL; the Port of Jacksonville, FL; Kings Bay, GA; the Port of Brunswick, GA; the Port of Savannah, GA; Charleston, SC; the Port of Morehead City, NC; the Port of Wilmington, NC; and the Port of Virginia.

The proposed St. Lucie to Hatteras Fairway would combine the portions of the St. Lucie to Chesapeake Offshore and Nearshore Fairways, which was discussed in the ANPRM, from St. Lucie, FL to Cape Hatteras, NC. The fairway would maintain the split around the charted fixed structure near Ft. Pierce Inlet, FL as presented in the ANPRM. Because fairways are not designated for specific user groups, and since the two fairways proposed in the ANPRM share a common border, the Coast Guard is seeking to streamline regulations by proposing to combine the two fairways into a single fairway from St. Lucie, FL to Cape Hatteras, NC. This proposed fairway would be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 16—THE PROPOSED ST. LUCIE TO HATTERAS FAIRWAY

Latitude	Longitude
35°06′32″ N	74°58′03″ W
34°08′12″ N	76°13′25″ W
33°17′01″ N	77°24′37″ W
31°45′60″ N	79°54′60″ W
31°24′48″ N	80°15′25″ W
31°15′38″ N	80°21′14″ W
30°55′07″ N	80°29′47″ W
28°40′16″ N	80°06′15″ W
27°13′02″ N	79°48′27″ W
27°11′28″ N	79°58′17″ W
27°45′00″ N	80°05′18″ W
27°23′53″ N	80°02′26″ W
27°11′28″ N	79°58′17″ W
27°10′12″ N	80°03′04″ W
27°22′58″ N	80°07′20″ W
27°44′21″ N	80°10′14″ W
28°38′07″ N	80°21′01″ W
30°56′24″ N	80°45′09″ W

TABLE 16—THE PROPOSED ST. LUCIE TO HATTERAS FAIRWAY—Continued

Latitude	Longitude
31°22′43″ N	80°34′10″ W
31°31′32″ N	80°29′18″ W
31°56′27″ N	80°05′11″ W
33°27′43″ N	77°34′12″ W
34°18′07″ N	76°23′59″ W
35°09′05″ N	75°17′23″ W

The proposed Beaufort Inlet Connector Fairway would be approximately 23 NM long, in an approximate direction of 320 °T/140 °T, and between 5 and 10 NM wide. It would include customary routes for vessels in the approaches to Beaufort Inlet. The proposed Beaufort Inlet Connector Fairway would have a width of 5 NM at its nearshore most point and fan outwards to a maximum width of 10 NM where it would meet the St. Lucie to Hatteras Fairway, to support vessel transits to or from the north or south. This proposed fairway would be in an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 17—THE PROPOSED BEAUFORT INLET CONNECTOR FAIRWAY

Latitude	Longitude
34°10′17″ N	76°34′54″ W
34°34′09″ N	76°43′24″ W
34°35′52″ N	76°37′42″ W
34°17′00″ N	76°25′32″ W

The proposed Cape Fear River Southeastern approach Connector Fairway would be approximately 17 NM long, in a direction of approximately 300 °T/120 °T/, between 5 and 10 NM wide, and would include customary routes taken by vessels in the approaches to the Cape Fear River. The proposed Cape Fear River Southeastern approach Connector Fairway would have a width of 5 NM at its nearshore most point and would fan outwards to a maximum width of 10 NM, where it would meet the St. Lucie to Hatteras Fairway to support vessel transits to or from the north or south. This proposed fairway is an area enclosed by the following rhumb lines joining points (WGS 84 datum):

TABLE 18—THE PROPOSED CAPE FEAR RIVER SOUTHEASTERN APPROACH CONNECTOR FAIRWAY

Latitude	Longitude
33°28′07″ N	78°08′24″ W
33°13′45″ N	77°57′18″ W
33°06′41″ N	78°08′60″ W
33°27′44″ N	78°15′14″ W

The proposed Cape Fear River Southwestern approach Connector Fairway would be approximately 85 NM long, in a direction of approximately 039 °T/219 °T and 5 NM wide, and would include customary routes taken by vessels from Savanah, GA and Charleston, SC to the Cape Fear River. It would extend from the proposed precautionary area in the approaches to the Cape Fear River past the Cape Romain, SC Call Area. This proposed fairway would be in an area enclosed by rhumb lines connecting the following points (WGS 84 datum):

TABLE 19—THE PROPOSED CAPE FEAR RIVER SOUTHWESTERN APPROACH CONNECTOR FAIRWAY

Latitude	Longitude
32°55′31″ N	78°45′26″ W
32°30′42″ N	79°29′19″ W
32°34′40″ N	79°32′37″ W
32°59′13″ N	78°49′35″ W
33°34′29″ N	78°18′02″ W
33°28′20″ N	78°16′04″ W

B. Proposed Traffic Separation Schemes and Precautionary Areas

The Coast Guard is proposing two TSS extensions, one precautionary area expansion, and six new precautionary areas with associated traffic lanes, discussed below roughly in order of north to south. The Coast Guard based these routing measures on the fairways under consideration in the ANPRM, public comments, consultation with other government agencies, and the recommendations from the four PARS.

The Coast Guard is proposing a new precautionary area at the offshore terminus of the Off New York: Southeastern approach. This proposed precautionary area would be an approximately 197-square mile area encompassing the intersection of the Off New York: Southeastern approach, the proposed Barnegat to Narragansett Fairway, and the Hudson Canyon to Ambrose Southeastern Fairway. As discussed in section IV.D., *Results of PARS,* the Coast Guard expects to see a considerable amount of vessel traffic cross perpendicular to each other at the intersection of the fairways and TSS. A precautionary area would signify to mariners that they are transiting through an area, ''where ships must navigate with particular caution,'' because of the perpendicular crossing of vessel traffic. The proposed precautionary area would be in an area enclosed by rhumb lines connecting the following points (Datum: WGS 84):

TABLE 20—PROPOSED PRECAUTIONARY AREA OFF NEW YORK: SOUTHEASTERN APPROACH

Latitude	Longitude
39°42.92′ N	73°54.53′ W
39°53.17′ N	73°53.35′ W
39°57.63′ N	73°40.41′ W
39°48.35′ N	73°38.28′ W
39°42.92′ N	73°54.53′ W

The Coast Guard is proposing a new precautionary area at the offshore terminus of the Off New York: Southern approach. This proposed precautionary area would be an approximately 146-square mile area encompassing the intersection of the Off New York: Southern approach, the proposed Barnegat to Narragansett Fairway, and the St. Lucie to New York Fairway. As discussed in section IV.D., *Results of PARS,* the Coast Guard expects to see a considerable amount of vessel traffic cross perpendicular to each other at the intersection of the fairways and TSS. A precautionary area would signify to mariners that they are transiting through an area, ''where ships must navigate with particular caution,'' because of the perpendicular crossing of vessel traffic. The proposed precautionary area would be in an area enclosed by rhumb lines connecting the following points (Datum: WGS 84):

TABLE 21—PROPOSED PRECAUTIONARY AREA OFF NEW YORK: SOUTHERN APPROACH

Latitude	Longitude
40°01.53′ N	72°58.88′ W
39°55.23′ N	73°17.71′ W
40°02.41′ N	73°26.55′ W
40°09.02′ N	73°10.82′ W
40°01.53′ N	72°58.88′ W

In addition to these precautionary areas Off New York's Southern and Southeastern approaches, the Coast Guard is proposing two more precautionary areas where the fairway and TSS overlap: Barnegat to Ambrose Precautionary Area and Hudson Canyon to Ambrose Precautionary Area. The proposed precautionary areas would be in an area enclosed by rhumb lines connecting the following points (Datum: WGS 84):

TABLE 22—PROPOSED BARNEGAT TO AMBROSE PRECAUTIONARY AREA

Latitude	Longitude
39°53′10″ N	73°53′21″ W
39°57′38″ N	73°40′25″ W
39°48′21″ N	73°38′17″ W

TABLE 22—PROPOSED BARNEGAT TO AMBROSE PRECAUTIONARY AREA—Continued

Latitude	Longitude
39°42′55″ N	73°54′32″ W

TABLE 23—PROPOSED HUDSON CANYON TO AMBROSE PRECAUTIONARY AREA

Latitude	Longitude
40°02′24″ N	73°26′33″ W
40°09′01″ N	73°10′49″ W
40°01′32″ N	72°58′53″ W
39°55′14″ N	73°17′43″ W

The Coast Guard is proposing a new precautionary area at the offshore terminus of the Off Delaware Bay: Eastern approach. This proposed precautionary area would be an approximately 29-square mile area, encompassing the intersection of the Off Delaware Bay: Eastern approach and the proposed Off Delaware Bay to New Jersey Connector Fairway. The Coast Guard expects to see vessel traffic cross perpendicularly to each other at the intersection of the fairway and TSS. A precautionary area would signify to mariners that they are transiting through an area, ''where ships must navigate with particular caution,'' because of the perpendicular crossing of vessel traffic. The proposed precautionary area would be in an area enclosed by rhumb lines connecting the following points (Datum: WGS 84):

TABLE 24—PROPOSED PRECAUTIONARY AREA A OFF DELAWARE BAY: EASTERN APPROACH

Latitude	Longitude
38°49.80′ N	74°33.91′ W
38°49.79′ N	74°28.74′ W
38°44.44′ N	74°28.15′ W
38°44.45′ N	74°33.32′ W

The proposed extension of the Off Delaware Bay: Eastern approach would extend the TSS separation zone and traffic lanes approximately 16 NM offshore past the proposed precautionary area, where it would intersect with the St. Lucie to New York Fairway. The Coast Guard expects to see vessel traffic converge at the intersection of the TSS extension and the St. Lucie to New York Fairway, and therefore proposes a precautionary area at the intersection. A precautionary area would indicate to mariners that they are transiting through an area ''where ships must navigate with particular caution,''

because of the perpendicular crossing of vessel traffic. The proposed precautionary area would be in an area radius 5 NM centered upon geographical position 38°46.79′ N, 74°06.60′ W, the areas within the separation zones, traffic lanes, and fairways excluded. (Datum: WGS 84).

Because the proposed precautionary area A would bisect the proposed Eastern approach, we present the proposed separation zone and traffic lanes in two parts.

With the extension, the new separation zone for Off Delaware Bay: Eastern approach would be two areas enclosed by rhumb lines connecting the positions provided in tables 25 and 26 (Datum: WGS 84).

TABLE 25—PROPOSED SEPARATION ZONE FOR THE OFF DELAWARE BAY: EASTERN APPROACH—PART 1

Latitude	Longitude
38°47.35′ N	74°34.5′ W
38°47.35′ N	74°33.64′ W
38°46.3′ N	74°33.53′ W
38°46.3′ N	74°34.45′ W

TABLE 26—PROPOSED SEPARATION ZONE FOR THE OFF DELAWARE BAY: EASTERN APPROACH—PART 2

Latitude	Longitude
38°47.34′ N	74°28.47′ W
38°47.29′ N	74°12.98′ W
38°46.25′ N	74°12.98′ W
38°46.29′ N	74°28.35′ W

The proposed traffic lane for westbound traffic for the Off Delaware Bay: Eastern approach would be in an area enclosed by rhumb lines between the proposed separation zone parts and two corresponding lines connecting the positions provided in tables 27 and 28 (WGS 84):

TABLE 27—PROPOSED TRAFFIC LANE FOR WESTBOUND TRAFFIC FOR THE OFF DELAWARE BAY: EASTERN APPROACH—PART 1

Latitude	Longitude
38°49.80′ N	74°34.60′ W
38°49.80′ N	74°33.91′ W

TABLE 28—PROPOSED TRAFFIC LANE FOR WESTBOUND TRAFFIC FOR THE OFF DELAWARE BAY: EASTERN APPROACH—PART 2

Latitude	Longitude
38°49.79′ N	74°28.74′ W

TABLE 28—PROPOSED TRAFFIC LANE FOR WESTBOUND TRAFFIC FOR THE OFF DELAWARE BAY: EASTERN APPROACH—PART 2—Continued

Latitude	Longitude
38°49.77′ N	74°12.26′ W

The proposed eastbound traffic lane for the Off Delaware Bay: Eastern approach would be in an area enclosed by rhumb lines, between the proposed separation zone parts and two corresponding lines connecting the positions in tables 29 and 30 (WGS 84):

TABLE 29—PROPOSED TRAFFIC LANE FOR EASTBOUND TRAFFIC FOR THE OFF DELAWARE BAY: EASTERN APPROACH—PART 1

Latitude	Longitude
38°44.45′ N	74°34.35′ W
38°44.45′ N	74°33.32′ W

TABLE 30—PROPOSED TRAFFIC LANE FOR EASTBOUND TRAFFIC FOR THE OFF DELAWARE BAY: EASTERN APPROACH—PART 2

Latitude	Longitude
38°44.44′ N	74°28.15′ W
38°44.43′ N	74°12.55′ W

The proposed extension of the Off Delaware Bay: Southeastern approach would extend the TSS separation zone and traffic lanes approximately 12 NM farther offshore and would maintain the width of approximately 5 NM. With the extension, the new Off Delaware Bay: Southeastern approach traffic lanes and separation zones would be enclosed by rhumb lines connecting the following points (Datum: WGS 84):

TABLE 31—PROPOSED SEPARATION ZONE FOR THE OFF DELAWARE BAY: SOUTHEASTERN APPROACH

Latitude	Longitude
38°27.00′ N	74°42.30′ W
38°27.60′ N	74°41.30′ W
38°18.41′ N	74°32.53′ W
38°17.63′ N	74°33.35′ W

The proposed northwest-bound traffic lane for the Off Delaware Bay: Eastern approach would be in an area enclosed by rhumb lines, between the proposed separation zone and a line connecting the following positions (WGS 84):

TABLE 32—PROPOSED TRAFFIC LANE POSITIONS FOR NORTHWEST-BOUND TRAFFIC FOR THE OFF DELAWARE BAY: SOUTHEASTERN APPROACH

Latitude	Longitude
38°28.80′ N	74°39.30′ W
38°19.72′ N	74°30.63′ W

The proposed southeast-bound traffic lane for the Off Delaware Bay: Eastern approach would be in an area enclosed by rhumb lines, between the proposed separation zone and a line connecting the following positions (WGS 84):

TABLE 33—PROPOSED TRAFFIC LANE POSITIONS FOR SOUTHEAST-BOUND TRAFFIC FOR THE OFF DELAWARE BAY: EASTERN APPROACH

Latitude	Longitude
38°15.80′ N	74°34.75′ W
38°25.78′ N	74°44.28′ W

The Coast Guard is proposing a new precautionary area at the offshore terminus of the Off Delaware Bay: Southeastern approach. This proposed precautionary area would be an approximately 314-square mile area encompassing the intersection of the Off Delaware Bay: Southeastern approach, the proposed Chesapeake Bay to Delaware Bay Eastern approach Cutoff Fairway, the proposed Off Delaware Bay to New Jersey Connector Fairway, and the proposed St. Lucie to New York Fairway. The Coast Guard expects to see a considerable amount of vessel traffic meet at the intersection of the fairways and TSS. A precautionary area would signify to mariners that they are transiting through an area, ''where ships must navigate with particular caution,'' due to the perpendicular crossing of vessel traffic. The proposed precautionary area would be in an area radius 10 NM centered upon geographical position 38°10.02′ N, 74°25.34′ W, the areas within the separation zones, traffic lanes, and fairways excluded. (Datum: WGS 84)

The Coast Guard is proposing an expansion of the precautionary area at the entrance to the Delaware Bay. This proposed expansion would extend the precautionary area approximately 4.5 NM offshore and would gradually widen to 11 NM, where it would encompass the intersection of the proposed Cape Charles to Delaware Bay Fairway, the proposed New Jersey to New York Connector Fairway, and both the Off Delaware Bay: Eastern and Southeastern approaches. A precautionary area would signify to

mariners that they are transiting through an area, ''where ships must navigate with particular caution,'' due to the perpendicular crossing of vessel traffic. The proposed precautionary area extension would be in an area enclosed by the following points (Datum: WGS 84):

From 38°42.80′ N, 74°58.90′ W; then southeasterly to 38°37.25′ N, 74°54.15′ W; then northeasterly to 38°48.89′ N, 74°47.29′ W; then westerly to 38°48.31′ N, 74°55.39′ W; then westerly to 38°47.50′ N, 75°01.80′ W; then northerly to 38°50.75′ N, 75°03.40′ W; then northeasterly to 38°51.27′ N, 75°02.83′ W; then northerly to 38°54.80′ N, 75°01.60′ W; then westerly by an arc of 6.7 nautical miles centered at 38°48.90′ N, 75°05.60′ W to 38°55.53′ N, 75°05.87′ W; then southwesterly to 38°54.00′ N, 75°08.00′ W; then southerly to 38°46.60′ N, 75°03.55′ W; then southeasterly to 38°42.80′ N, 74°58.90′ W.

The Coast Guard is proposing a new precautionary area connecting the termini of the Eastern and Southern approach to the TSS in the approaches to Chesapeake Bay. This proposed precautionary area would be approximately 22 NM long, bounded by arcs of 5 NM, and 5 NM wide. It would also encompass the intersections of the proposed Hatteras to Chesapeake Bay Nearshore Fairway, the proposed Hatteras to Chesapeake Bay Offshore Fairway, the Chesapeake Bay Connector—South Fairway, the Chesapeake Bay Connector—North Fairway, the Cape Charles to Delaware Bay Fairway, and both the Eastern and Southern approaches in the approaches to Chesapeake Bay TSS. A precautionary area is charted between the Eastern and Southern approaches to Chesapeake Bay, but it was never adopted by IMO, nor codified in 33 CFR part 167. This existing precautionary area is included within the proposed precautionary area. A precautionary area would signify to mariners that they are transiting through an area, ''where ships must navigate with particular caution,'' due to the perpendicular crossing of vessel traffic. The proposed precautionary area would be in an area enclosed by the following points (Datum: WGS 84):

From 36°58.25′ N, 75°48.44′ W; then easterly by an arc of 5 NM centered at 36°59.06′ N, 75°42.28′ W to 36°59.27′ N, 75°36.04′ W; then southerly to 36°47.20′ N, 75°35.35′ W; then westerly by an arc of 5 NM centered around 36°46.98′ N, 075°41.58′ W to 36°48.21′ N, 075°47.61′ W; then northerly to 36°48.87′ N, 075°47.42′ W; then northeasterly to 36°50.33′ N, 075°46.29′ W; then northerly to 36°57.04′ N, 075°48.01′ W; then northwesterly to 36°57.94′ N, 075°48.41′ W; then northerly to 36°58.25′ N, 75°48.44′ W.

The Coast Guard is proposing a new precautionary area at the offshore terminus of the TSS for the approaches to the Cape Fear River. This proposed precautionary area would be an approximately 75-square mile area encompassing the intersection of the Cape Fear River TSS, the proposed Cape Fear Southeastern approach Connector Fairway, and the proposed Cape Fear Southwestern approach Connector Fairway. A precautionary area would signify to mariners that they are transiting through an area, ''where ships must navigate with particular caution,'' due to the perpendicular crossing of vessel traffic. The proposed precautionary area would be in an area enclosed by the following points (Datum: WGS 84):

From 33°36.22′ N, 078°17.30′ W; then easterly by an arc of 5.2 NM centered at 33°32.99′ N, 078°12.10′ W; to 33°32.75′ N, 078°05.99′ W; then westerly to 33°32.75′ N, 078°09.66′ W; then northwesterly to 33°34.50′ N, 078°14.70′ W; then northwesterly to 33°36.22′ N, 078°17.30′ W.

VII. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. A summary of our analyses based on these statutes and Executive orders follows.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review), as amended by Executive Order 14094 (Modernizing Regulatory Review), and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

This proposed rule is a significant regulatory action under section 3(f) of Executive Order 12866, as amended by Executive Order 14094, and has been reviewed by the Office of Management and Budget (OMB). A combined regulatory analysis and regulatory flexibility analysis follows.

The Coast Guard is proposing to codify shipping safety fairways along historic and well-established vessel traffic patterns and routes. These fairways would provide advance information to the offshore wind energy sector and help ensure that vessels traversing waters subject to U.S. jurisdiction would have unimpeded voyages, free from fixed and affixed structures. Establishing the fairways would not impose any costs on the offshore wind energy sector or to vessels, as there are no costs for streamlining the preexisting requirements for offshore wind energy consultations and for vessels to continue to travel along their historic routes.

Throughout BOEM's competitive lease process, as defined in 30 CFR part 585, BOEM engages with its task forces and directly with other Federal agencies, including the Coast Guard, whom BOEM relies on to assist with identifying potential maritime conflicts. This engagement is iterative throughout the development of commercial leases from the RFI to the competitive lease sale because the interest and needs of both OREI and the maritime industry, as well as States and the Federal agencies, are dynamic and evolving over time. Codifying traditional shipping lanes into fairways, TSSs, and precautionary areas has the effect of providing relevant stakeholders with necessary information earlier in the competitive lease process. Additionally, these fairways would help ensure that vessels have clear and unimpeded transit routes to and from U.S. ports, preserving safe and reliable transit paths.

Background

To address climate change while also meeting growing energy demands, President Biden issued Executive Order 14008 (Tackling the Climate Crisis at Home and Abroad). Executive Order 14008 is designed to signal a significant increase in ambition to meet the climate crisis. In particular, section 207 of the Order directs the Administration to identify steps needed to increase renewable energy production, specifically offshore wind energy production, with defined goals on measured timelines. The Biden Administration then announced a shared goal between the Departments of Interior, Energy, and Commerce to deploy 30 gigawatts (GW) of offshore wind energy by 2030, while protecting biodiversity and ocean co-use.[20] The

[20] The White House, ''FACT SHEET: Biden Administration Jumpstarts Offshore Wind Energy Projects to Create Jobs,'' 03/29/2021. Available at: *https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/29/fact-sheet-biden-*

Administration also identified that achieving this 2030 goal would unlock a pathway to 110 GW of offshore wind energy generation by 2050.[21]

The Coast Guard recognizes the increase in offshore commercial activity and will work with other Federal agencies to facilitate this continued growth. The Coast Guard believes that establishing consistent and clearly defined fairways, TSSs, and precautionary areas will facilitate this development while preserving continued ready access to port facilities.

Protecting access to Atlantic ports is also critical to the U.S. and global economies. Any obstructions or delays in shipping could result in added costs that may trickle down to consumers and disrupt supply chains across all industries. For the purpose of this discussion, table 34 [22] lists the average value of goods flowing through various Atlantic ports each day. For example, the Port of Virginia handles $106.7 billion worth of goods per year, or an estimated $296.3 million per day.

TABLE 34—AVERAGE VALUE OF GOODS PER DAY FLOWING THROUGH ATLANTIC PORTS

Port	Daily value of goods (millions)	Annual value of goods (billions) *
Boston	$31.7	$11.268
New York-New Jersey	765.1	271.692
Delaware River	171.2	60.804
Baltimore	206.4	73.296
Virginia	296.3	105.228

Note: Monetary values in 2022 dollars. We calculated daily estimates using 360 working days.

Moving these goods generates port activity and revenue. In turn, these businesses, as well as their employees, purchase goods and services, creating a small ecosystem within each port community.

In an effort to help maintain the unimpeded flow of goods and service in and out of U.S. Ports, this NPRM proposes fairways, TSSs, and precautionary areas for vessels to use for transit. Under this proposed rule, vessels would be able to maintain their unimpeded access to and from all ports of call along the Atlantic Coast. Vessels would be free to transit and maintain their routes according to their business operation decisions and to continue with their historic operational patterns.

Affected Population

Establishing fairways primarily affects offshore wind energy developers by restricting the space that they may site future WEAs. The American Clean Power Association (ACP) is a pro-wind lobbying organization that tracks offshore wind development. As noted in ACP's May 2023 Offshore Wind Market Report, the United States has 32 active leases for renewable energy in development on the OCS.[23] This report notes that the United States currently has 42 megawatts (MW) of offshore wind capacity currently operating and is expected to grow to 51.4 GW once all the 32 lease sites come online. Of those 32 offshore leases, BOEM has awarded 29 on the Atlantic OCS.[24] These 29 offshore leases are expected to be able to generate approximately 43 GW of power once fully operational.

We examined each of the Atlantic lease sites, reviewing relevant lease contracts and paperwork to determine location and size, as well as relevant details about the developer. The results of this review are presented in table 35. According to the Coast Guard Navigation Center (NAVCEN), the total size of the Atlantic EEZ from St. Lucie, FL to Montauk, NY is approximately 194.834 million acres. The 29 lease sites on the Atlantic EEZ span approximately 2.35 million acres and account for 1.21 percent of the Atlantic EEZ ($2.35 \div 194.834 \times 100\% = 1.21$ percent).

The 29 offshore wind energy lease areas are situated within relative proximity to the proposed fairways. Despite this, there would be no overlap between them and the offshore wind energy lease areas. The Coast Guard recognized this proximity and included a 2–NM buffer zone within each side of the proposed fairway designation area as a result. This 2–NM buffer zone would allow developers to build up to the limits of the fairway, so long as no overhang of the structure extends out of the lease area into the fairway. Given the existence of this buffer zone, no known or planned energy installation lease areas would be affected by fairway boundaries or traffic.

Additionally, as discussed in section V. Discussion of ANPRM Comments earlier, the Coast Guard has worked with BOEM to ensure that these proposed fairways would not interfere with any existing or planned lease sites. Table 35 below provides a list of all current offshore wind energy projects, their proximity to the fairways, and the distance (in NM) between each project and the closest fairways(s).

TABLE 35—CURRENT OFFSHORE WIND ENERGY PROJECTS

No.	Lease No.	Project name	State	Capacity (MW) *	Developer	Size (acres)	Closest fairway	Distance (NM)
1	OCS–A 0482	Garden State Offshore Energy.	DE	*1,249*	NRG Energy, Inc.	70,098	Off Delaware Bay to New Jersey.	~1 to 2.
2	OCS–A 0483	Coastal Virginia Offshore Wind.	VA	2,587	Dominion Energy Inc	112,799	1. Chesapeake Bay North. 2. Chesapeake Bay South.	~1.
3	OCS–A 0486	Revolution Wind	MA, RI	704	Ørsted, Eversource	83,798	Barnegat to Narragansett	~10.
4	OCS–A 0487	Sunrise Wind	MA, RI	924	Ørsted, Eversource	109,952	Barnegat to Narragansett	~5.

administration-jumpstarts-offshore-wind-energy-projects-to-create-jobs/. Accessed June 08, 2023.

[21] Ibid.

[22] Data for table 34 in 2022 dollars from USA Trade® Online, *https://usatrade.census.gov/* Monetary values. Last accessed May 24, 2023.

[23] ACP, ''Offshore Wind Market Report,'' May 2023, *https://cleanpower.org/resources/offshore-wind-market-report-2023/*. Last accessed May 23, 2023.

[24] Bureau of Ocean Energy Management, Lease and Grant Information. Available at: *https://www.boem.gov/renewable-energy/lease-and-grant-information*. Last accessed May 23, 2023.

TABLE 35—CURRENT OFFSHORE WIND ENERGY PROJECTS—Continued

No.	Lease No.	Project name	State	Capacity (MW) *	Developer	Size (acres)	Closest fairway	Distance (NM)
5	OCS–A 0490	US Wind	MD	1,079	U.S. Wind	79,707	Cape Charles to Delaware Bay.	~3.
6	OCS–A 0497	Coastal Virginia Offshore Wind.	VA	12	Dominion Energy Inc	2,135	1. Chesapeake Bay North. 2. Chesapeake Bay South.	~1 ~3.
7	OCS–A 0498	Ocean Wind 1	NJ	1,100	Ørsted	75,526	St. Lucie to New York	~5 to 10.
8	OCS–A 0499	Atlantic Shores South	NJ	1,510	EDF, Shell	102,123	1. New Jersey to New York. 2. St. Lucie to New York	~1 to 2.
9	OCS–A 0500	Bay State Wind	MA, RI	*2,579*	Ørsted	144,823	Nantucket to Ambrose	~5 to 9.
10	OCS–A 0501	Vineyard Wind 1	MA, RI	806	Avangrid Inc., CIP	65,296	*Not within 10 NM to any*	~10 to 35.
11	OCS–A 0506**	Block Island Wind Farm	RI	30	Ørsted	7,708	*Right of Way Grant for Cables.*	n/a.
12	OCS–A 0508	Kitty Hawk	NC	3,500	Avangrid Inc.	122,405	Hatteras to Chesapeake Bay.	~1.
13	OCS–A 0512	Empire Wind	NY	2,076	BP, Equinor Asa	79,350	Nantucket to Ambrose	~5.
14	OCS–A 0517	South Fork Wind	MA, RI	132	Ørsted, Eversource	13,700	Barnegat to Narragansett	~10.
15	OCS–A 0519	Skipjack	DE	966	Ørsted	26,332	Off Delaware Bay to New Jersey.	~2 to 3.
16	OCS–A 0520	Beacon Wind	MA, RI	1,230	BP, Equinor Asa	128,811	Nantucket to Ambrose	~6.
17	OCS–A 0521	Mayflower Wind	MA, RI	1,204	EDP Renewables, Engie, Shell.	127,388	Nantucket to Ambrose	~5.
18	OCS–A 0522	Vineyard Northeast	MA, RI	*2,358*	Avangrid Inc., CIP	132,370	Nantucket to Ambrose	~4.
19	OCS–A 0532	Ocean Wind 2	NJ	1,148	Ørsted	84,955	1. New Jersey to New York. 2. Off Delaware Bay to New Jersey.	~1.
20	OCS–A 0534	New England Wind	MA, RI	2,036	Avangrid Inc.	101,590	*Not within 10 NM to any*	~10 to 30.
21	OCS–A 0537	Bluepoint Wind	NY	1,700	EDP, Engie North America.	71,522	1. Hudson Canyon to Ambrose. 2. Hudson Canyon to Ambrose.	~1.
22	OCS–A 0538	Attentive Energy	NJ	3,000	TotalEnergies	84,332	Hudson Canyon to Ambrose.	~1.
23	OCS–A 0539	Hudson South—C	NJ	3,000	RWE, National Grid plc	125,964	1. Hudson Canyon to Ambrose. 2. St. Lucie to New York	~7.
24	OCS–A 0541	Hudson South—E	NJ	*1,414*	EDF Group, Shell	79,351	St. Lucie to New York	~1.
25	OCS–A 0542	Hudson South—F	NJ	2,000	GE Renewable Energy	83,976	St. Lucie to New York	~3.
26	OCS–A 0544	Hudson North	NY	*767*	CIP	43,056	Barnegat to Narragansett	~1.
27	OCS–A 0545	Wilmington West	NC	1,000	TotalEnergies	54,937	Cape Fear Southeastern	~2.
28	OCS–A 0546	Wilmington East	NC	*1,600*	Duke Energy Corp	55,154	St. Lucie to Hatteras	~2.
29	OCS–A 0549	Atlantic Shores North	NJ	*1,446*	EDF Group, Shell	81,129	1. New Jersey to New York. 2. St. Lucie to New York	~1 to 2.
Totals				43,157		2,350,287		

* Where a proposed capacity has not been stated publicly, ACP estimates potential capacity using a factor of 4.4 MW per square kilometer. We denote estimates in italics.

** Lease number references right-of-way grant. Block Island Wind Farm is located in Rhode Island State waters.

On November 16, 2022, BOEM announced eight draft WEAs in the Central Atlantic,[25] subject to public and Federal agency comments. Additionally, on April 25, 2023, BOEM issued a Call for information and nominations for the Gulf of Maine in preparation for possible offshore WEA development.[26]

As discussed in Section VI.F *BOEM's Leasing Process,* the BOEM lease process is an iterative process that takes many steps and can take many years to complete. These steps include drafting and publishing an RFI in the **Federal Register**, developing the Call area, drafting WEAs, conducting lease auctions, awarding the lease, and conducting an environmental review before BOEM issues a final Record of Decision, which will then allow industry to begin developing active sites in the lease area. We discuss the impact of these steps in more detail in the *Costs* section of this analysis.

During BOEM's leasing process, the Coast Guard provides comments regarding existing high-volume shipping lanes, which have historically and will continue to prevent other development in these areas. By codifying the historic shipping lanes into fairways, TSSs, and precautionary areas, the Coast Guard would provide developers the necessary information prior to expending resources exploring areas that cannot be developed without significantly and adversely affecting existing shipping lanes.

According to NAVCEN, the proposed fairways, TSSs, and precautionary areas would encompass approximately 24.4 million acres, or 12.5 percent, of the Atlantic EEZ ($24.4 \div 194.8 \times 100\% = 12.5$ percent). Existing wind energy lease areas are expected to generate over 43 GW of offshore wind energy.

Regulatory Analysis

This NPRM proposes to codify PARS recommendations into fairways, TSSs, and precautionary areas along the Atlantic Coast. This would help ensure that vessels traversing waters subject to U.S. jurisdiction would have unimpeded voyages, free from fixed and affixed structures, as they transit to and from their destinations. This action

[25] *https://www.boem.gov/renewable-energy/state-activities/central-atlantic.* Last accessed May 23, 2023.

[26] *https://www.boem.gov/renewable-energy/state-activities/maine/gulf-maine.* Last accessed May 23, 2023.

would also align with one of the Coast Guard's central missions of maintaining and securing safe navigable waters for vessels transiting waters subject to U.S. jurisdiction.

The Coast Guard is anticipating an increase in offshore activity and hopes to preserve existing shipping lanes and accommodate OREI developments, thereby managing future expectations and balancing the needs of the maritime and energy sectors. If left unabated, future development areas could create unintended navigation hazards, delays, or impediments to the safe and efficient transportation and commerce of maritime vessels carrying goods, materials, and people. Vessels transit to, from, and between U.S. ports in well-defined routes and in regular patterns. These typical vessel routes have been developed over many years as companies look to maximize transportation efficiencies. For this reason, the Coast Guard proposes codifying existing shipping lanes into fairways, TSSs, and precautionary areas.

Although this NPRM is proposing to codify fairways, TSSs, and precautionary areas for vessel use, it would not require vessels to use them. This proposed rule would maintain the status quo in that vessels would be free to navigate the waters of the United States to maximize voyage efficiencies while operating in a safe manner. Since this NPRM would not impose any requirements that would cause vessels to change their behavior, the Coast Guard does not anticipate that the proposed rule would impact the vessel population but is seeking comments on the possible impacts of this proposed rule.

Costs

Developing offshore wind energy projects on the OCS is a multi-faceted and iterative process. BOEM is the Federal agency responsible for issuing leases, easements, and rights-of-way for renewable energy projects on the OCS. BOEM determines whether to issue leases in consultation and coordination with other Federal agencies, potentially affected federally recognized Tribes, States, and local governments. As specified in 30 CFR 585.210, BOEM initiates the competitive lease process by publishing in the **Federal Register** an RFI covering certain areas of the OCS. BOEM uses the responses to the RFI to determine if there is a competitive interest for scheduling sales and issuing leases. If the RFI phase garners sufficient interest, BOEM begins the process of issuing competitive leases as detailed in 30 CFR 585.211. BOEM then follows a four-step process to issue competitive leases, with three of the steps requiring publication in the **Federal Register** and subsequent review of responses. Those four steps laid out in 30 CFR 585.211 are as follows:

(1) Publishing a Call for information and nominations;

(2) Identifying the area for a lease;

(3) Publishing a proposed sale notice; and

(4) Publishing a final sale notice.

BOEM typically conducts an environmental review under NEPA at the proposed sale notice stage and finalizes that review in parallel with the final sale notice. Furthermore, once BOEM issues a lease, applicants cannot begin construction until BOEM concludes additional steps, which include reviewing applicants' Site Assessment Plans and Construction and Operation Plans (COP), performing a subsequent NEPA analysis, consulting with additional Federal agencies, and concluding a final technical review of all activities. BOEM specifically states that a ''lease does not grant the lessee the right to construct any facilities; rather, the lease grants the right to develop a plan for use of the area for BOEM's review and potential approval.'' Once the environmental reviews under NEPA, consultations under the ESA, and BOEM's technical reviews are complete, BOEM may approve, disapprove, or approve with modifications a lessee's COP. If a COP is approved, the lessee must submit required reports to the Bureau of Safety and Environmental Enforcement (BSEE). Once the lessee receives a non-objection from BSEE and all other necessary Federal and State permits, as well as a consistency determination under the CZMA, the lessee may begin construction on the OCS.

Given that this consultation process must occur before issuing new leases, the proposed fairways, TSSs, and precautionary areas do not cause future potential lease sites to incur any additional costs because consideration of commercial vessel traffic is already an existing baseline requirement under current regulations (§ 585.102(a)(9)).

The Coast Guard recognizes the competing interests of the maritime domain as well as the Administration's goal to increase offshore wind energy production and has taken steps to ensure that the proposed fairways, TSSs, and precautionary areas do not intersect, limit, remove, or in any other way interfere with the continued development of the current lease sites noted in table 35. The proposed fairways, TSSs, and precautionary areas would codify traditional vessel navigation routes. This reflects the work done in the PARS, which analyzed vessel travel patterns and relative densities to make recommendations regarding preferred vessel travel routes. Additionally, vessels would be free to transit along other routes outside the proposed fairways, but we expect vessels would continue to operate as they have historically. Since this NPRM would not impact existing vessel behavior, nor would it conflict with any existing lease areas, the Coast Guard determined that there are no costs associated to existing leases located in the Atlantic OCS as a result of this proposed rule. The Coast Guard will continue to work and collaborate with other agencies to further the Biden Administration's offshore wind energy goals. Furthermore, the Coast Guard asks the public to submit comments that address how future offshore energy development may be impacted by this proposed regulation, and whether any alternative fairway orientations could reduce those impacts while preserving navigational safety.

Benefits

The current offshore wind energy development process relies on input from the public and Federal agencies at various stages and levels. It is an iterative process that must consider the needs of various stakeholders and agencies while also navigating renewable energy demands. Of particular note, 30 CFR 585.102(a)(5) specifies that BOEM must coordinate with ''relevant Federal agencies (including, in particular, those agencies involved in planning activities that are undertaken to avoid conflicts among users and maximize the economic and ecological benefits of the OCS)[.]'' Under § 585.102(a)(7), BOEM must also ''[protect] the rights of other authorized users of the OCS,'' and § 585.102(a)(9) directs BOEM to ''[prevent] interference with reasonable uses . . . of the [EEZ], the high seas, and the territorial seas.''

The proposed fairways, TSSs, and precautionary areas would accomplish this by minimizing conflicts while, preserving the rights of, and preventing interference with, reasonable users of the EEZ and surrounding waters.

Given the complex nature of the process that BOEM must take when proposing and subsequently developing wind energy lease sites, proposing these fairways, TSSs, and precautionary areas would facilitate efficient interagency comments between the Coast Guard, BOEM, and other relevant stakeholders early on during the leasing process by communicating the locations of historic vessel travel lanes and areas with high vessel traffic. Additionally, establishing

these fairways would facilitate quick and unambiguous communication of less-trafficked and open-water areas for future potential energy exploration projects and needs.

Individual lease sites issued by BOEM are not on exclusive waters. This means that vessels in the vicinity of the area are free to transit through lease sites. However, those vessels must still employ safe navigation practices.[27] Similarly, the fairways, proposed by this NPRM are not restrictive in that vessels are not required to use the fairways.

Given the nascent nature of the offshore wind energy industry, there are relatively few detailed studies regarding vessel and wind farm interaction. A study from 2015 looked at five wind energy lease sites in the Thames Estuary and recorded AIS transponder data before and after wind farm development. This international study notes the importance of accounting for vessel traffic patterns prior to establishing wind farms and that traffic management measures are critical to mitigating potential risks.[28] A subsequent 2022 study sponsored by Germany looked at vessel AIS data to gauge the relative risk in the North and Baltic Seas in the German EEZ. This area of the German EEZ is also experiencing offshore wind energy project growth. A principal conclusion from this study is that ''developments in recent years lead to an increasing safety risk due to limited available fairways[.]'' [29]

A case study for the Baltic Master project, an international effort sponsored by the European Union to address maritime safety, looked at the interaction between vessel traffic and wind farms on the southwest Baltic Sea. The study noted that when traffic organizing patterns were applied to areas where vessels transit on a regular basis, those vessels traveled along more organized, compact, and consistent routes without incurring additional delays or other unintended consequences. These passive mitigating measures were observed to reduce the risk of collision, particularly around wind farms.[30] This expected risk reduction would be beneficial to both vessels and wind farms in the study area.

A recent study by the National Academies looked at the interaction of vessels navigating in wind farms and determined that vessels could experience interference and reflectivity due to the turbine structures and blades with additional combining factors which could lead to degrading effectiveness and confusing navigational pictures.[31] The unique combination of factors in wind farms may lead to reduced navigational effectiveness and lost contact with smaller objects such as buoys, smaller commercial fishing vessels, and recreational vessels.[32] Recommendations from this study concluded that vessels should use additional caution when transiting through WEAs. Commercial vessels can instead use the proposed fairways to preserve uninterrupted access along their traditional routes without experiencing significant degradation in navigation.

The proposed fairways, TSSs, and precautionary areas provide clear shipping lanes for commercial vessel navigation and allow for safe navigation in and out of busy U.S. Atlantic ports. This proposed rule fosters one of the Coast Guard's central missions of maintaining and securing safe navigable waters for vessels transiting through waters subject to U.S. jurisdiction. This NPRM also furthers the President's offshore wind energy goals by minimizing conflicts through advance notice of traditional commercial maritime routes, sharing in maritime use rights, and preventing interference with users of the EEZ and surrounding waters.

Environmental Impact

The Coast Guard is studying the environmental issues that commenters presented during the ANPRM stage of this rulemaking. NEPA will provide the primary framework for our environmental analyses, and we will meet the requirements of other involved environmental statutes in parallel. These include, but are not limited to the ESA, MMPA, Magnuson Stevens, Fishery Conservation and Management Act, and CZMA. The Coast Guard will evaluate the potential environmental effects associated with this proposed rule and will provide documentation for public review and comment as discussed in section VII.E, *Environment* of this preamble.

The Council on Environmental Quality's regulations require that a draft EIS ''normally'' accompany a proposed rule. S*ee* 40 CFR 1502.5(d). However, for this proposed rulemaking, the large geographic scope of the project area poses challenges for the Coast Guard's environmental review, due to the number of species, issues, and State, Tribal, and Federal entities with whom it will consult or coordinate. Publishing this proposed rule before the completion of the draft NEPA document is part of the Coast Guard's efforts to identify a range of reasonable alternatives for the environmental review process.

The Coast Guard appreciates its ongoing coordination with BOEM on the designated fairways. The Coast Guard also appreciates BOEM's ongoing environmental analysis of the affected environment; it also recognizes that BOEM's assessments, which focus on small static sections, are not sufficient for meeting the environmental review requirements for the Coast Guard's rulemaking process. The Coast Guard's rulemaking process requires an analysis with a broader scope along the entire Atlantic Coast. We will use the best available information to inform this analysis. Given the dynamic nature of the emerging renewable energy industry, we will also use the public's continued input to determine new information concurrently with our rulemaking and incorporate it as practical during the regulatory development process.

The Coast Guard's environmental coordination and associated consultations for this rulemaking will include coordination with State and Federal agencies and federally recognized Tribes pursuant to governing environmental statutes, regulations, and Executive orders. As stated above, the Coast Guard is currently gathering

[27] Rules 18 & 19 of Convention of the International Regulation for Preventing Collision at Sea, 1972.

[28] Andrew Rawson and Edward Rogers, ''Assessing the Impacts to Vessel Traffic from Offshore Wind Farms in the Thames Estuary,'' *Scientific Journals of the Maritime University of Szczecin,* Volume 43 (115), January 2015, pages 99 through 107. (PDF) Assessing the impacts to vessel traffic from offshore wind farms in the Thames Estuary (*https://www.researchgate.net/publication/316460284_Assessing_the_impacts_to_vessel_traffic_from_offshore_wind_farms_in_the_Thames_Estuary*). Last accessed July 21, 2023.

[29] Jürgen Weigell, Carlos Jahn; ''Assessing Offshore Wind Farm Collision Risks Using AIS Data: An Overview.''; *Changing Tides: The New Role of Resilience and Sustainability in Logistics and Supply Chain Management—Innovative Approaches for the Shift to a New Era. Proceedings of the Hamburg International Conference of Logistics (HICL);* Vol. 33, ISBN 978–3–756541–95–9, Berlin, Germany; 2022; pages 499 through 521; available at *https://hdl.handle.net/10419/267197.* Last accessed June 22, 2023.

[30] European Union, Baltic Master; Case Study, ''Kiegers Flak'' I, II, & III; ''Offshore Windfarm Development and the Issue of Maritime Safety.''; September 2007; *https://discomap.eea.europa.eu/map/Data/Milieu/OURCOAST_191_DE/OURCOAST_191_DE_Doc1_OffshoreWindfarm.pdf.* Last accessed June 22, 2023.

[31] National Academies of Sciences, Engineering, and Medicine, ''Wind Turbine Generator Impacts to Marine Vessel Radar,'' *The National Academies Press,* 2022. Available at *https://doi.org/10.17226/26430.* Last accessed June 22, 2023.

[32] Ibid.

preliminary data and will initiate its environmental analyses as soon as possible to determine potential impacts, if any, that establishing the proposed fairways may have on the environment. We will use the information collected and analyzed to inform our compliance with NEPA as well as other involved environmental statutes.

Alternatives

The Coast Guard considered the following alternatives while developing this proposed rule:

(1) The Coast Guard could take no action. This alternative would allow for continued conflicts between navigation and proposed offshore energy development and other competing uses. These conflicts would not be resolved until later in the lease process, at potential expense and delays for the OREI developers. This alternative could also put the priority right of navigation at risk in violation of the Coast Guard's statutory mandates. In addition, the ''no action'' alternative would leave the status quo in place, which allows OREI development projects to be proposed without regard to historic vessel routes. Additionally, this alternative requires consistent and extensive oversight by the Coast Guard to monitor all activities undertaken by another Federal Agency. The status quo is a resource intensive process due to the continuous and iterative wind energy lease process. For these reasons, the Coast Guard rejects this alternative.

(2) Instead of establishing the fairways through rulemaking, the Coast Guard could work with BOEM under a memorandum of agreement to jointly limit issuance of new leases for offshore wind development to areas outside of the fairways identified in this NPRM. This alternative would allow for continued collaboration between the two agencies but would have to be completed on a case-by-case basis. Beyond efficiency concerns, which are substantial, this approach lacks the certainty and stability that comes with codifying the dimensions of the proposed fairways in the CFR. Under this alternative, offshore energy developers would not be certain where WEAs can and cannot go, making long-term strategic planning very difficult.

(3) The third and preferred alternative is to conduct a rulemaking to codify vessel travel lanes into fairways along the Atlantic Coast to ensure that vessels traversing waters subject to U.S. jurisdiction would have unimpeded voyages. The Coast Guard is proposing fairway routes, TSSs, and precautionary areas, the dimensions of which would be finalized over the course of the rulemaking process.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Section 603(b) of the Regulatory Flexibility Act prescribes the content of the Initial Regulatory Flexibility Analysis, which addresses the following:

(1) A description of the reasons why action by the agency is being considered;

(2) A succinct statement of the objectives of, and legal basis for, this proposed rule;

(3) A description of and, where feasible, an estimate of the number of small entities to which this proposed rule will apply;

(4) A description of the projected reporting, recordkeeping, and other compliance requirements of this proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;

(5) An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with this proposed rule; and

(6) A description of any significant alternatives to this proposed rule that accomplish the stated objectives of applicable statutes and minimize any significant economic impact of the proposed rule on small entities.

1. A description of the reasons why the action by the agency is being considered.

The Coast Guard proposes to establish fairways, TSSs, and precautionary areas along the Atlantic Coast of the United States as identified in the PARS. Fairways allow for the implementation of safe and reliable vessel transit routes along already established traffic patterns and routes.

The Coast Guard is proposing this action to ensure that traditional navigation routes are kept free from fixed structures that could affect navigation safety. The Coast Guard recognizes that current offshore development trends and other increased shared commercial activities on the OCS necessitate the preservation of safe commercial shipping lanes as fairways. Fairways, TSSs, and precautionary areas are necessary to preserve traditional maritime commerce routes and safe access to U.S. ports and protect them from the emplacement of fixed structures that could impact navigation safety.

2. A succinct statement of the objective of, and legal basis for, this proposed rule.

This NPRM proposes to codify existing vessel traffic patterns into fairways, TSSs, and precautionary areas along the Atlantic Coast of the United States to ensure that traditional navigation routes are kept free from fixed structures that could affect navigation safety.

Chapter 700, Ports and Waterways Safety, of Title 46 U.S.C. authorizes the Secretary of the department in which the Coast Guard is operating to take certain actions to advance port, harbor, and coastal facility safety and security. Specifically, 46 U.S.C. 70001 and 70034 authorize the Secretary to promulgate regulations to establish reporting and operating requirements, surveillance and communications systems, routing systems, and fairways. The Secretary has delegated this authority to the Commandant of the Coast Guard (DHS Delegation 00170.1, Revision No. 01.3, paragraph (II)(70)).

3. A description-and, where feasible, an estimate of the number-of small entities to which this proposed rule will apply.

The Coast Guard is proposing 18 fairways and 1 fairway anchorage. These fairways are based on the fairways described in the ANPRM and have been further refined based on public comments, consultation with other Federal Government agencies, and the recommendations from the PARS. Fairways are corridors that set aside areas of sufficient depth and dimensions to accommodate vessels to allow for the orderly and safe movements of vessels transiting to or from ports. Designating a particular area as a fairway establishes the requirement that the area remains free of fixed structures that could pose navigational hazards or impediments. These fairways would be established next to and in the vicinity of existing lease sites as described in table 35.

We gathered and examined information on BOEM's lease sites to evaluate the size of the lessees.[33] We examined lease documents, assignment documents, and company information

[33] BOEM Lease and Grant Information web page. Available at *https://www.boem.gov/renewable-energy/lease-and-grant-information.* Last accessed May 23, 2023

using open and proprietary sources [34] to determine which entities were leasing each site, as well as their principal business operation as determined by their primary North American Industry Classification System (NAICS) code, to make a determination whether each of the entities is considered to be a small entity according to the Small Business Administration's (SBA) standards.[35] Using the latest table of small business size standards for each NAICS code from the SBA, we determine the threshold amount and category type for each small entity and present the results in table 36 below organized by NAICS code.

TABLE 36—NUMBER OF SMALL ENTITIES AFFECTED BY THIS PROPOSED RULE

NAICS code	NAICS code and industry type	Size standard type	SBA size standard	Number of entities	Number of small entities
213112	Support Activities for Oil and Gas Operations	Revenue (Millions)	$47.0	2	0
221115	Wind Electric Power Generation	Employees	1,150	2	0
221121	Electric Bulk Power Transmission and Control	Employees	950	1	0
221122	Electrical Power Distribution	Employees	1,100	5	0
238220	Plumbing, Heating, and Air Conditioning Contractors.	Revenue (Millions)	$19.0	1	0
333611	Turbine & turbine Generator Set Unit Manufacturing.	Employees	1,500	1	0
541715	Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology).	Employees	1,000	1	0
525910	Open End Investment Funds	Revenue (Millions)	$40.0	1	0
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance.	Revenue (Millions)	$12.5	1	0

The 29 active WEA lease sites we identified in table 35 earlier are being developed or operated by 14 unique companies and one State Government entity partnering with a research entity (NAICS 541715), none of which are considered to be small entities as determined by SBA size standards.

Discussion of effect

These fairways, TSSs, and precautionary areas would not intersect any existing wind energy lease sites and those sites would not be restricted in their operations. As such, we do not expect any impact to leaseholders from the proposed fairways nor any costs to the leaseholder companies. As previously discussed in section VI. Discussion of Proposed Rule, vessels would be free to transit along other routes outside the proposed fairways and we expect vessels would continue to operate as they have historically. Since this NPRM would not impact existing vessel behavior, the Coast Guard determined that there are no costs associated to vessel operators; therefore, costs were not further evaluated. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment to the docket at the address listed in the **ADDRESSES** section of this preamble. In your comment, explain why you think it qualifies and how and to what degree this proposed rule would economically affect it.

4. A description of the projected reporting, recordkeeping, and other compliance requirements of this proposed rule, including an estimate of the classes of small entities that will be subject to the requirements and the type of professional skills necessary for preparation of the report or record.

This proposed rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

5. An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule.

There are no relevant Federal rules that may duplicate, overlap, or conflict with this NPRM.

6. A description of any significant alternatives to this proposed rule that accomplish the stated objectives of applicable statutes and minimize any significant economic impact of the proposed rule on small entities.

The Coast Guard identified three alternatives for this proposed rule as identified earlier in the *Alternatives* discussion. During our review, the Coast Guard did not identify any small entities which would be affected by this proposed rule. Therefore, the Coast Guard did not consider any additional alternatives specifically tailored to minimize impacts on small entities.

7. Conclusion.

We are interested in the potential impacts from this proposed rule on small businesses and we request public comment on these potential impacts. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment to the docket at the address listed in the **ADDRESSES** section of this preamble. In your comment, explain why you think it qualifies and how and to what degree this proposed rule would economically affect it.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we want to assist small entities in understanding this proposed rule, so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning the proposed rule's provisions or options for compliance, please call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule. The Coast Guard will not retaliate

[34] Reference USA U.S. Business Research, *https://www.referenceusagov.com/*. Last accessed May 23, 2023.

[35] U.S. Small Business Administration Table of Size Standards, *https://www.sba.gov/document/support-table-size-standards*. Last accessed May 23, 2023. PDF Table link: *https://www.sba.gov/sites/sbagov/files/2023-03/Table%20of%20Size%20Standards_Effective%20March%2017%2C%202023%20%281%29%20%281%29_0.pdf*.

against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This proposed rule would call for no new or revised collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520, nor would it impact any existing collection of information.

E. Federalism

A rule has implications for federalism under Executive Order 13132 (Federalism) if it has a substantial direct effect on 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. We have analyzed this proposed rule under Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis follows.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. Title 46, Sections 70001 and 70034 of the U.S.C. make it clear that the Coast Guard has the sole authority ''to construct, operate, maintain, improve, or expand vessel traffic services,'' which include fairways, TSSs, and precautionary areas. This authority extends to the ability to issue regulations to implement such services.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole administrator of such services, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with federalism implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this proposed rule would have implications for federalism under Executive Order 13132, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

F. Unfunded Mandates

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100 million (adjusted for inflation) or more in any one year. Although this proposed rule would not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

H. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, (Civil Justice Reform), to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this proposed rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This proposed rule may have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), because it may have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. In accordance with DHS' Tribal Consultation Policy, the Coast Guard will initiate a process of meaningful and timely consultation with federally recognized Tribes to determine the impact of the proposed rule on Tribal concerns. This process involves four steps: (1) preparation and identification of Tribes directly affected and issues, (2) a notification of consultation to potentially affected Tribal Nations, (3) receiving Tribal input and adjudicating that input, and (4) follow-up to explain how the results of the consultation were incorporated.

K. Energy Effects

We have analyzed this proposed rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a ''significant energy action'' under that order because although it is a ''significant regulatory action'' under Executive Order 12866, as amended by Executive Order 14094, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. While it is true that this proposed rule could have impacts on BOEM's effort to promulgate renewable energy lease areas on the Atlantic OCS, the Coast Guard has worked closely with BOEM throughout the rulemaking process to ensure that this proposed rule would not create inconsistency or interfere with BOEM's leasing efforts.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this proposed rule under DHS Management Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq). The Coast Guard will conduct an EIS to evaluate the potential environmental effects associated with this proposal and will provide documentation for public

review and comment in the docket, where indicated under the Public Participation and Request for Comments section of this preamble. We encourage the public to submit comments on the documents as they are posted. The public will be allotted the customary comment periods for each item.

The large geographic scope of the project area poses challenges for the Coast Guard's environmental evaluations, due to the number of species that occur in the project area, the variety of issues in play that are evaluated as part of the Coast Guard's NEPA assessment, and the number of stakeholder entities with whom the Coast Guard will consult or coordinate. To address these challenges, the Coast Guard is publishing this NPRM without the draft NEPA document that usually accompanies a NPRM. Continued public input will help the Coast Guard identify a reasonable number of alternatives to explore during the environmental review process. The Coast Guard's environmental coordination for this rulemaking will include coordination with State and Federal agencies, and federally recognized Tribes pursuant to several cultural resource and environmental statutes (including NEPA, ESA, the National Historic Preservation Act of 1966, CZMA, and MMPA).

This proposed rule involves possibly establishing and codifying fairways, TSSs, and precautionary areas based on existing vessel traffic patterns at key transportation nodes to major domestic ports along the Atlantic Coast of the United States. The proposed navigation safety corridors presented in this NPRM are informed by ACPARS as expanded upon by the consolidated PARS supplemental efforts. This system of fairways, TSSs, and precautionary areas is intended to ensure that traditional navigation routes are kept free from fixed and affixed structures that could impact navigation safety. These fairways, TSSs, and precautionary areas would support the Coast Guard's Ports and Waterways Safety; Aids to Navigation; Marine Safety; and Marine Environmental Protection missions by identifying safe and efficient traffic schemes to serve vessels moving to or among Atlantic Coast ports, thereby reducing opportunities for incidents that could result in casualties or environmental damage. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

33 CFR Part 166

Anchorage grounds, Marine safety, Navigation (water), Waterways.

33 CFR Part 167

Harbors, Marine safety, Navigation (water), Waterways.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR parts 166 and 167 as follows:

PART 166—SHIPPING SAFETY FAIRWAYS

■ 1. The authority citation for part 166 is revised to read as follows:

Authority: 46 U.S.C. 70001, 70003; DHS Delegation No. 00170.0, Revision No. 01.3, paragraph (II)(70).

■ 2. In § 166.500, revise paragraph (b) to read as follows:

§ 166.500 Areas along the Atlantic Coast.

* * * * *

(b) *Designated Areas*—

(1) Long Island Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(1)

Latitude	Longitude
40°29′15″ N	73°32′03″ W
40°31′02″ N	73°35′17″ W
40°30′15″ N	73°41′25″ W
40°31′33″ N	73°42′23″ W
40°35′59″ N	73°11′39″ W
41°06′31″ N	71°30′24″ W
41°02′51″ N	71°29′06″ W
40°48′05″ N	71°59′27″ W
40°32′38″ N	72°50′50″ W
40°32′12″ N	73°11′28″ W

Datum: WGS 84

(2) Nantucket to Ambrose Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(2)

Latitude	Longitude
40°32′20″ N	73°04′55″ W
40°30′59″ N	72°57′39″ W
40°34′07″ N	70°19′26″ W
40°35′41″ N	70°14′02″ W
40°22′38″ N	70°13′34″ W
40°24′07″ N	70°19′03″ W
40°20′57″ N	72°58′22″ W
40°19′20″ N	73°04′56″ W

Datum: WGS 84

(3) Hudson Canyon to Ambrose Eastern Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(3)

Latitude	Longitude
40°08′25″ N	72°38′18″ W
40°08′25″ N	72°27′34″ W
40°08′25″ N	72°00′00″ W
40°03′25″ N	72°00′00″ W
40°03′25″ N	72°27′34″ W
40°03′25″ N	72°53′15″ W

Datum: WGS 84

(4) Hudson Canyon to Ambrose Southeastern approach Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(4)

Latitude	Longitude
40°01′32″ N	72°58′53″ W
40°00′20″ N	72°56′59″ W
39°42′19″ N	72°34′32″ W
39°24′19″ N	72°12′12″ W
39°06′19″ N	71°49′57″ W
38°48′19″ N	71°27′49″ W
38°30′19″ N	71°05′45″ W
38°12′19″ N	70°43′48″ W
37°54′40″ N	70°22′22″ W
37°45′55″ N	70°38′53″ W
38°01′33″ N	70°57′56″ W
38°19′33″ N	71°19′57″ W
38°37′33″ N	71°42′04″ W
38°55′33″ N	72°04′17″ W
39°13′33″ N	72°26′35″ W
39°31′33″ N	72°48′59″ W
39°49′33″ N	73°11′28″ W
39°55′14″ N	73°17′43″ W

Datum: WGS 84

(5) Barnegat to Narragansett Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(5)

Latitude	Longitude
39°53′10″ N	73°53′21″ W
39°57′38″ N	73°40′25″ W
40°02′24″ N	73°26′33″ W
40°09′01″ N	73°10′49″ W
40°09′37″ N	73°06′52″ W
40°48′05″ N	71°59′27″ W
41°02′51″ N	71°29′06″ W
41°02′11″ N	71°18′13″ W
40°20′32″ N	72°02′02″ W
40°01′32″ N	72°58′53″ W
39°55′14″ N	73°17′43″ W
39°48′21″ N	73°38′17″ W
39°42′55″ N	73°54′32″ W

Datum: WGS 84

(6) New Jersey to New York Connector Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(6)

Latitude	Longitude
38°48′54″ N	74°47′17″ W
38°48′19″ N	74°55′24″ W
39°29′42″ N	74°12′28″ W
39°47′36″ N	74°00′38″ W
40°22′17″ N	73°55′58″ W
40°20′30″ N	73°49′38″ W
39°52′58″ N	73°53′22″ W
39°42′55″ N	73°54′32″ W
39°41′42″ N	73°58′10″ W
39°35′15″ N	74°02′59″ W
39°27′30″ N	74°08′07″ W
39°06′13″ N	74°30′01″ W

Datum: WGS 84

(7) St. Lucie to New York Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(7)

Latitude	Longitude
36°17′51″ N	74°26′02″ W
35°17′41″ N	74°40′46″ W
34°33′21″ N	74°52′32″ W
33°57′08″ N	75°20′14″ W
32°49′16″ N	76°06′42″ W
31°37′49″ N	76°51′25″ W
29°36′06″ N	78°06′19″ W
27°46′56″ N	79°12′18″ W
27°51′00″ N	79°21′20″ W
29°40′20″ N	78°15′25″ W
31°42′04″ N	77°00′43″ W
32°53′37″ N	76°16′03″ W
34°01′48″ N	75°29′30″ W
34°36′50″ N	75°02′46″ W
35°19′31″ N	74°51′32″ W
36°07′03″ N	74°39′60″ W
37°59′00″ N	74°25′56″ W
38°18′34″ N	74°18′21″ W
38°41′08″ N	74°09′36″ W
38°52′59″ N	74°05′01″ W
39°15′49″ N	73°56′09″ W
39°42′55″ N	73°54′32″ W
39°45′42″ N	73°46′12″ W
39°48′21″ N	73°38′17″ W
39°45′42″ N	73°37′40″ W
39°11′38″ N	73°40′30″ W

Datum: WGS 84

(8) Offshore Delaware Bay to New Jersey Connector Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(8)

Latitude	Longitude
38°19′43″ N	74°30′38″ W
38°44′27″ N	74°33′19″ W
38°49′48″ N	74°33′54″ W
39°01′14″ N	74°35′09″ W
39°06′13″ N	74°30′01″ W
39°01′41″ N	74°30′03″ W
38°49′47″ N	74°28′44″ W
38°44′26″ N	74°28′09″ W
38°21′04″ N	74°25′35″ W

Datum: WGS 84

(9) Delaware Bay Fairway Anchorage. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(9)

Latitude	Longitude
38°31′23″ N	74°35′39″ W
38°32′23″ N	74°32′01″ W
38°19′43″ N	74°30′38″ W
38°28′48″ N	74°39′18″ W

Datum: WGS 84

(10) Cape Charles to Delaware Bay Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(10)

Latitude	Longitude
38°31′31″ N	74°55′28″ W
37°53′08″ N	74°56′45″ W
36°59′41″ N	75°36′05″ W
37°01′39″ N	75°47′38″ W
38°01′17″ N	75°04′15″ W
38°42′50″ N	74°58′56″ W
38°37′15″ N	74°54′09″ W

Datum: WGS 84

(11) Chesapeake Bay to Delaware Bay: Eastern approach Cutoff Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(11)

Latitude	Longitude
37°16′48″ N	75°23′35″ W
38°04′32″ N	74°34′56″ W
37°58′60″ N	74°25′56″ W
37°08′44″ N	75°17′17″ W
37°08′43″ N	75°29′30″ W

Datum: WGS 84

(12) Chesapeake Bay approach Connector-North Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(12)

Latitude	Longitude
37°08′43″ N	075°29′30″ W
37°08′50″ N	74°32′14″ W
36°59′49″ N	74°33′22″ W
36°59′42″ N	075°27′31″ W
36°57′56″ N	075°29′59″ W
36°49′18″ N	075°29′56″ W
36°49′18″ N	075°35′28″ W
36°59′41″ N	075°36′05″ W

Datum: WGS 84

(13) Chesapeake Bay Approach Connector—South Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(13)

Latitude	Longitude
36°49′18″ N	75°35′28″ W
36°49′18″ N	74°34′41″ W
36°40′21″ N	74°35′49″ W
36°40′17″ N	75°33′31″ W
36°43′51″ N	75°36′43″ W

Datum: WGS 84

(14) Hatteras to Chesapeake Bay Offshore Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(14)

Latitude	Longitude
35°06′32″ N	74°58′03″ W
35°07′36″ N	75°06′05″ W
35°59′33″ N	75°06′58″ W
36°09′53″ N	75°16′11″ W
36°21′49″ N	75°26′54″ W
36°34′42″ N	75°38′28″ W
36°41′58″ N	75°41′36″ W
36°43′51″ N	75°36′43″ W
36°25′19″ N	75°20′05″ W
36°13′49″ N	75°09′47″ W
36°01′44″ N	74°59′01″ W

Datum: WGS 84

(15) Hatteras to Chesapeake Bay Nearshore Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(15)

Latitude	Longitude
35°09′05″ N	75°17′23″ W
35°35′43″ N	75°19′23″ W
36°35′18″ N	75°43′45″ W
36°44′43″ N	75°47′08″ W
36°41′58″ N	75°41′36″ W
36°34′42″ N	75°38′28″ W
36°26′19″ N	75°30′57″ W
35°37′03″ N	75°10′53″ W
35°07′57″ N	75°08′45″ W

Datum: WGS 84

(16) St. Lucie to Hatteras Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(16)

Latitude	Longitude
35°06′32″ N	74°58′03″ W
34°08′12″ N	76°13′25″ W
33°17′01″ N	77°24′37″ W
31°45′60″ N	79°54′60″ W
31°24′48″ N	80°15′25″ W
31°15′38″ N	80°21′14″ W
30°55′07″ N	80°29′47″ W
28°40′16″ N	80°06′15″ W
27°13′02″ N	79°48′27″ W
27°11′28″ N	79°58′17″ W
27°45′00″ N	80°05′18″ W
27°23′53″ N	80°02′26″ W
27°11′28″ N	79°58′17″ W

TABLE 1 TO § 166.500(b)(16)—Continued

Latitude	Longitude
27°10′12″ N	80°03′04″ W
27°22′58″ N	80°07′20″ W
27°44′21″ N	80°10′14″ W
28°38′07″ N	80°21′01″ W
30°56′24″ N	80°45′09″ W
31°22′43″ N	80°34′10″ W
31°31′32″ N	80°29′18″ W
31°56′27″ N	80°05′11″ W
33°27′43″ N	77°34′12″ W
34°18′07″ N	76°23′59″ W
35°09′05″ N	75°17′23″ W

Datum: WGS 84

(17) Beaufort Inlet Connector Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(17)

Latitude	Longitude
34°10′17″ N	76°34′54″ W
34°34′09″ N	76°43′24″ W
34°35′52″ N	76°37′42″ W
34°17′00″ N	76°25′32″ W

Datum: WGS 84

(18) Cape Fear River Southeastern approach Connector Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(18)

Latitude	Longitude
33°28′07″ N	78°08′24″ W
33°13′45″ N	77°57′18″ W
33°06′41″ N	78°08′60″ W
33°27′44″ N	78°15′14″ W

Datum: WGS 84

(19) Cape Fear River Southwestern approach Connector Fairway. The area enclosed by rhumb lines, joining points at:

TABLE 1 TO § 166.500(b)(19)

Latitude	Longitude
32°55′31″ N	78°45′26″ W
32°30′42″ N	79°29′19″ W
32°34′40″ N	79°32′37″ W
32°59′13″ N	78°49′35″ W
33°34′29″ N	78°18′02″ W
33°28′20″ N	78°16′04″ W

Datum: WGS 84

PART 167—OFFSHORE TRAFFIC SEPARATION SCHEMES

■ 3. The authority citation for part 167 is revised to read as follows:

Authority: 46 U.S.C. 70001, 70003; DHS Delegation No. 00170.0, Revision No. 01.3, paragraph (II)(70).

■ 4. Amend § 167.151 by adding paragraphs (c) and (d) to read as follows.

§ 167.151 Off New York: Precautionary areas.

* * * * *

(c) A precautionary area is established as follows: from 39°42.92′ N, 73°54.53′ W; then northerly to 39°53.17′ N, 73°53.35′ W; then northeasterly to 39°57.63′ N, 73°40.41′ W; then southeasterly to 39°48.35′ N, 73°38.28′ W; then southwesterly to 39°42.92′ N, 73°54.53′ W.

Datum: WGS 84

(d) A precautionary area is established as follows: from 40°01.53′ N, 72°58.88′ W; then southwesterly to 39°55.23′ N, 73°17.71′ W; then northwesterly to 40°02.41′ N, 73°26.55′ W; then northeasterly to 40°09.02′ N, 73°10.82′ W; then southeasterly to 40°01.53′ N, 72°58.88′ W.

Datum: WGS 84

■ 5. Revise § 167.171 to read as follows:

§ 167.171 Off Delaware Bay: Eastern approach.

(a) A separation zone is established bounded by a line connecting the following geographic positions:

TABLE 1 TO § 167.171(a)

Latitude	Longitude
38°47.35′ N	74°34.5′ W
38°47.35′ N	74°33.64′ W
38°46.3′ N	74°33.53′ W
38°46.3′ N	74°34.45′ W

Datum: WGS 84

(b) A traffic lane for westbound traffic is established between the separation zone and a line connecting the following geographic positions:

TABLE 1 TO § 167.171(b)

Latitude	Longitude
38°49.80′ N	74°34.60′ W
38°49.80′ N	74°33.91′ W

Datum: WGS 84

(c) A traffic lane for eastbound traffic is established between the separation zone and a line connecting the following geographic positions:

TABLE 1 TO § 167.171(c)

Latitude	Longitude
38°44.45′ N	74°33.32' W
38°44.45′ N	74°34.35′ W

Datum: WGS 84

(d) A separation zone is established bound by a line connecting the following geographic positions:

TABLE 1 TO § 167.171(d)

Latitude	Longitude
38°47.34′ N	74°28.47′ W
38°47.29′ N	74°12.98′ W
38°46.25′ N	74°12.98′ W
38°46.29′ N	74°28.35′ W

Datum: WGS 84

(e) A traffic lane for westbound traffic is established between the separation zone and a line connecting the following geographic positions:

TABLE 1 TO § 167.171(e)

Latitude	Longitude
38°49.79′ N	74°28.74′ W
38°49.77′ N	74°12.26′ W

Datum: WGS 84

(f) A traffic lane for eastbound traffic is established between the separation zone and a line connecting the following geographic positions

TABLE 1 TO § 167.171(f)

Latitude	Longitude
38°44.44′ N	74°28.15′ W
38°44.43′ N	74°12.55′ W

Datum: WGS 84

■ 6. Revise § 167.172 to read as follows:

§ 167.172 Off Delaware Bay: Southeastern approach.

(a) A separation zone is established bounded by a line connecting the following geographic positions:

TABLE 1 TO § 167.172(a)

Latitude	Longitude
38°27.00′ N	74°42.30′ W
38°27.60′ N	74°41.30′ W
38°18.41′ N	74°32.53′ W
38°17.63′ N	74°33.35′ W

Datum: WGS 84

(b) A traffic lane for north-westbound traffic is established between separation zone and a line connecting the following geographic positions:

TABLE 1 TO § 167.172(b)

Latitude	Longitude
38°28.80′ N	74°39.30′ W
38°19.72′ N	74°30.63′ W

Datum: WGS 84

(c) A traffic lane for south-eastbound traffic is established between the separation zone and a line connecting the following geographic positions:

TABLE 1 TO § 167.172(c)

Latitude	Longitude
38°15.80′ N	74°34.75′ W
38°25.78′ N	74°44.28′ W

Datum: WGS 84

■ 7. Revise § 167.174 and its section heading to read as follows:

§ 167.174 Off Delaware Bay: Precautionary areas.

(a) A precautionary area is established as follows: from 38°42.80′ N, 74°58.90′ W; then southeasterly to 38°37.25′ N, 74°54.15′ W; then northeasterly to 38°48.89′ N, 74°47.29′ W; then westerly to 38°48.31′ N, 74°55.39′ W; then westerly to 38°47.50′ N, 75°01.80′ W; then northerly to 38°50.75′ N, 75°03.40′ W; then northeasterly to 38°51.27′ N, 75°02.83′ W; then northerly to 38°54.80′ N, 75°01.60′ W; then westerly by an arc of 6.7 nautical miles centered at 38°48.90′ N, 75°05.60′ W to 38°55.53′ N, 75°05.87′ W; then southwesterly to 38°54.00′ N, 75°08.00′ W; then southerly to 38°46.60′ N, 75°03.55′ W; then southeasterly to 38°42.80′ N, 74°58.90′ W.

Datum: WGS 84.

(b) A precautionary area is established as follows: from 38°49.80′ N, 74°33.91′ W; then easterly to 38°49.79′ N, 74°28.74′ W; then southerly to 38°44.44′ N, 74°28.15′ W; then westerly to 38°44.45′ N, 74°33.32′ W; then northerly to 38°49.80′ N, 74°33.91′ W.

Datum: WGS 84.

(c) A precautionary area is established with a radius of 5 nautical miles centered upon geographical position 38°46.79′ N, 74°06.60′ W, the areas within the separation zones, traffic lanes, and fairways excluded.

Datum: WGS 84.

(d) A precautionary area is established with a radius of 10 nautical miles centered upon geographical position 38°10.02′ N, 74°25.34′ W, the areas within the separation zones, traffic lanes, and fairways excluded.

Datum: WGS 84.

§ 167.200 [Amended]

■ 8. Amend § 167.200 paragraph (a) by:

■ a. After the text ''three parts:'', removing the word ''a'' and adding, in its place, the word ''two'';

■ b. Removing the word ''Area'' and adding, in its place, the word ''Areas''; and

■ c. After the text ''167.202,'', adding the text ''and''.

■ 9. Amend § 167.201 by:

■ a. Redesignating the introductory text as paragraph (a);

■ b. Adding a title to Table 1 to § 167.201(a); and

■ c. Adding paragraph (b).

The additions read as follows:

§ 167.201 In the approaches to Chesapeake Bay: Precautionary areas.

(a) * * *

TABLE 1 TO § 167.201(a)

*	*	*	*	*

(b) A precautionary area is established as follows: from 36°58.25′ N, 75°48.44′ W; then easterly by an arc of 5 nautical miles centered at 36°59.06′ N, 75°42.28′ W to 36°59.27′ N, 75°36.04′ W; then southerly to 36°47.20′ N, 75°35.35′ W; then westerly by an arc of 5 nautical miles centered around 36°46.98′ N, 075°41.58′ W to 36°48.21′ N, 075°47.61′ W; then northerly to 36°48.87′ N, 075°47.42′ W; then northeasterly to 36°50.33′ N, 075°46.29′ W; then northerly to 36°57.04′ N, 075°48.01′ W; then northwesterly to 36°57.94′ N, 075°48.41′ W; then northerly to 36°58.25′ N, 75°48.44′ W.

Datum: WGS 849.

■ 10. Amend § 167.251 by:

■ a. Redesignating the introductory text as paragraph (a); and

■ b. Adding paragraph (b) to read as follows:

§ 167.251 In the approaches to the Cape Fear River: Precautionary area.

* * * * *

(b) A precautionary area is established as follows: from 33°36.22′ N, 078°17.30′ W; then easterly by an arc of 5.2 nautical miles centered at 33°32.99′ N, 078°12.10′ W; to 33°32.75′ N, 078°05.99′ W; then westerly to 33°32.75′ N, 078°09.66′ W; then northwesterly to 33°34.50′ N, 078°14.70′ W; then northwesterly to 33°36.22′ N, 078°17.30′ W.

Datum: WGS 84.

Dated: January 9, 2024.

Linda L. Fagan,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 2024–00757 Filed 1–18–24; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2021–0691; FRL–11644–01–R4]

Air Plan Approval; KY; 2015 8-Hour Ozone Nonattainment New Source Review Permit Program Requirements and Rule Revision for Jefferson County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Jefferson County portion of the Kentucky State Implementation Plan (SIP) submitted by the Commonwealth of Kentucky through the Kentucky Energy and Environment Cabinet (Cabinet) on June 13, 2022. The changes were submitted by the Cabinet on behalf of the Louisville Metro Air Pollution Control District (District, also referred to herein as Jefferson County). EPA is proposing to approve changes to the District's rules on the construction or modification of major stationary sources that are located within nonattainment areas or that have emissions impacting nonattainment areas. EPA also is proposing to approve the certification submitted by Kentucky on behalf of the District that the new version of the Nonattainment New Source Review (NNSR) permitting regulations proposed for incorporation into the Jefferson County portion of the Kentucky SIP meets the NNSR nonattainment planning requirements for the 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS). The certification covers the Jefferson County portion of the Louisville, Kentucky-Indiana multi-state nonattainment area for the 2015 8-hour ozone NAAQS. This action is proposed pursuant to the Clean Air Act (CAA or Act) and its implementing regulations.

DATES: Comments must be received on or before February 20, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2021–0691 at *www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video,