



Jessica Stromberg  
Bureau of Ocean Energy Management  
Environment Branch for Renewable Energy  
45600 Woodland Road, Mail Stop VAM-OREP  
Sterling, VA 20166

**Re: Docket No. BOEM–2023–0034, Notice of Intent To Prepare an Environmental Assessment for Commercial Wind Lease Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf Offshore Delaware, Maryland, and Virginia**

Dear Ms. Stromberg,

The American Clean Power Association (ACP), MAREC Action (MAREC informally stands for “Mid-Atlantic Renewable Energy Coalition”), and the Southeastern Wind Coalition (SEWC) appreciate this opportunity to comment on your Notice of Intent (NOI) To Prepare an Environmental Assessment (EA) for Commercial Wind Lease Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf Offshore Delaware, Maryland, and Virginia. Though helpful as a first step, the NOI as currently written falls short of setting a path to achieve both President Biden’s offshore wind ambitions *and* the mandates set by states in the region. To remedy this, BOEM should expeditiously expand the scope of the EA in order to analyze lease issuance for a much larger area than just the final Central Atlantic Wind Energy Areas (WEAs), for two key reasons:

1. There is a window of opportunity for BOEM to substantially increase the size of the proposed lease areas from those in the final Central Atlantic Wind Energy Areas (WEAs) without unduly delaying the leasing process or creating unresolvable ocean use conflicts.
2. A broader EA could create efficiencies for a second Central Atlantic lease sale, which BOEM has announced its intent to conduct in its Final WEA Memorandum.

We address each rationale in turn below.

**I. Increasing the Areas Analyzed in the EA Will Give BOEM the Flexibility to Increase the Size of The Proposed Lease Areas**

As discussed in our comments on the draft WEAs, a robust Central Atlantic lease sale is pivotal to meeting state offshore wind goals and building a regional domestic supply chain.<sup>1</sup> The final WEAs jeopardize several states’ abilities to meet their offshore goals. BOEM could increase the size of the final WEAs by 85% between now and the proposed sale notice (PSN), however, by working with the United States Coast Guard (USCG) to re-route two proposed fairways. Potential fisheries impacts can be managed through the construction and operations plan (COP)

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<sup>1</sup> ACP, MAREC, SEWC, CCEBA Comments on Central Atlantic Draft Wind Energy Areas, available at <https://www.regulations.gov/comment/BOEM-2022-0072-0045> (“Industry Comments on Draft WEAs”)



stage of the offshore wind development process. While its regulations allow BOEM to propose larger lease areas than the final WEAs, BOEM must first ensure that it conducts a lease sale NEPA analysis on the larger area.

The final WEAs all represent commercially viable areas that are well suited for offshore wind development. However, the currently proposed areas do not provide sufficient acreage to satisfy current and anticipated state goals or ensure a robust and durable mid-Atlantic offshore wind supply chain. Maryland alone has 6.5 gigawatts (GW) of unmet offshore wind capacity after it expanded its offshore wind mandate to 8.5 GW by 2030.<sup>2</sup> On August 3, 2023, Delaware Governor John Carney signed into law legislation that restarts the state's work with PJM Interconnection, LLC to study the transmission impacts of offshore wind and to develop a process for procuring offshore wind.<sup>3</sup> The two final WEAs that could most readily interconnect into Maryland or Delaware, A-2 and B-1, have an estimated combined capacity of between 2.1 and 4.1 GW.<sup>4</sup> This is a shortfall in Maryland which also does not account for a potential future Delaware offshore wind target, as well as the possibility that energy generated in WEAs A-2 and B-1 (if leased) could also go toward New Jersey's 11 GW mandate.<sup>5</sup> And as indicated in our prior comments, we are also concerned that this volume of acreage could fall short of what is needed to sustain investments in a regional supply chain.<sup>6</sup>

We recognize and appreciate BOEM's interest in conducting a second Central Atlantic lease sale,<sup>7</sup> but such a sale would not address the concerns stated above. First, this second lease sale would presumably happen after September 2024, which is currently the absolute latest that BOEM can issue offshore wind leases under the Inflation Reduction Act's provisions establishing a one-year window for offshore wind leasing after an offshore oil and gas lease sale.<sup>8</sup> Second, it is unclear whether a second lease sale would involve additional shallow water areas that are capable of developing within the timeframes needed by states and supply chain companies. BOEM has publicly signaled an interest only in leasing in deep water in this second round, which would take many more years to develop and thus may not timely satisfy Maryland's state target or the needs of a nascent offshore wind supply chain.<sup>9</sup>

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<sup>2</sup> [https://mgaleg.maryland.gov/2023RS/chapters\\_noln/Ch\\_95\\_sb0781E.pdf](https://mgaleg.maryland.gov/2023RS/chapters_noln/Ch_95_sb0781E.pdf).

<sup>3</sup> <https://legis.delaware.gov/BillDetail/140563>.

<sup>4</sup> BOEM Central Atlantic Area ID Memo at 10, available at <https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/Central%20Atlantic%20Memorandum%20for%20Area%20ID.pdf>.

<sup>5</sup> <https://nj.gov/infobank/eo/056murphy/pdf/EO-307.pdf>.

<sup>6</sup> See Industry Comments on Draft WEAs at 6-7; see also ACP Comments on Call for Information and Nominations for Commercial Leasing for Wind Power Development on the Central Atlantic Outer Continental Shelf (June 28, 2022) at 8, available at <https://www.regulations.gov/comment/BOEM-2022-0023-0048>.

<sup>7</sup> See <https://www.boem.gov/renewable-energy/state-activities/central-atlantic>, indicating that BOEM "may identify additional WEAs in deepwater areas offshore the U.S. Central Atlantic coast for future leasing once further study of those areas has been done."

<sup>8</sup> 43 U.S.C. § 3006(b)(2). Given that no offshore oil and gas lease sale is expected to occur until well into 2025, it is unknown whether and when this second Central Atlantic lease sale will occur.

<sup>9</sup> See note 6.



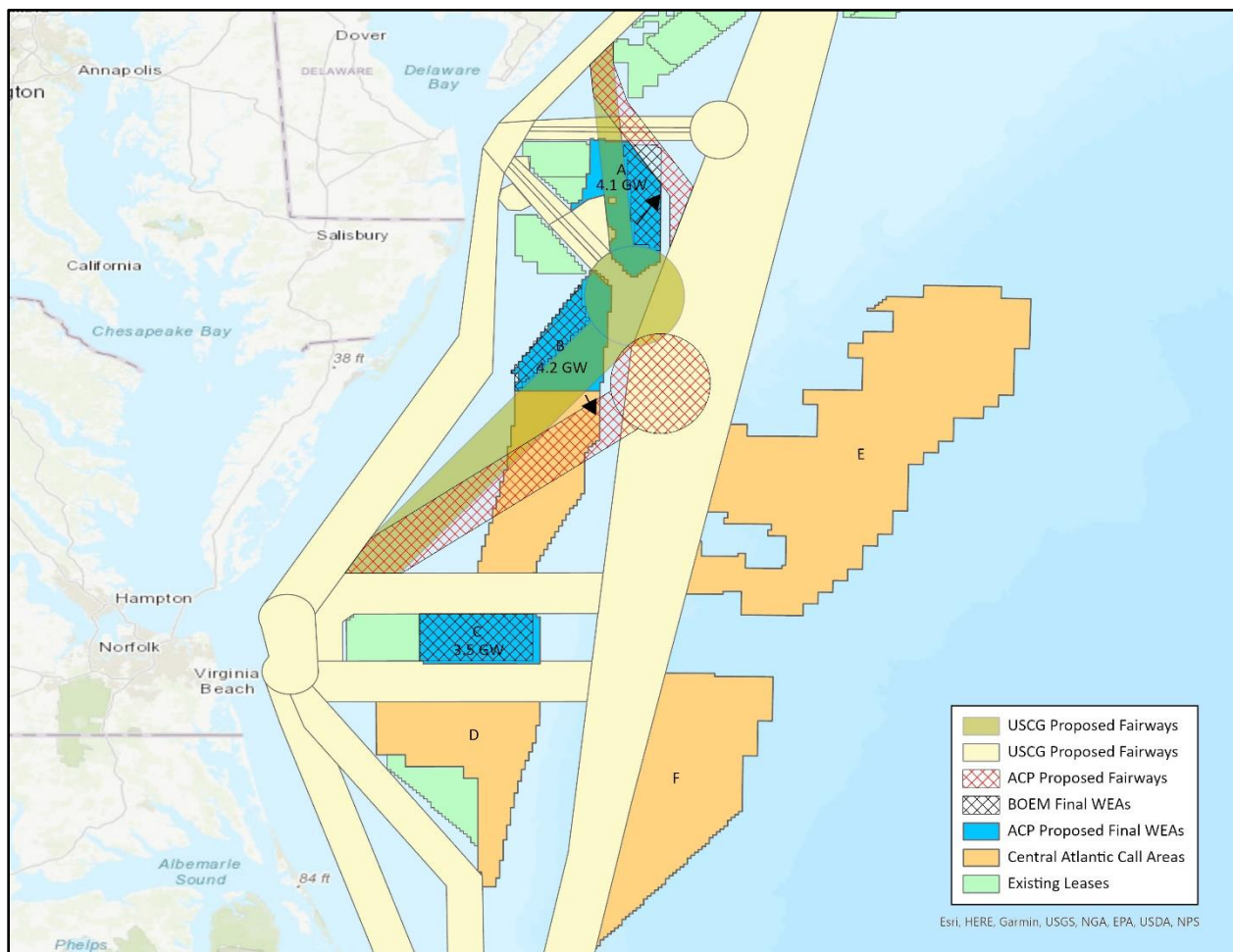
Fortunately, there is a path to increase acreage and energy generation in *this lease sale*. As described in ACP’s comments submitted to USCG this past June in response to its most recent Consolidated Atlantic Coast Port Access Route Study maps (and attached hereto as **Appendix A**), USCG could rotate two of its proposed fairways by several degrees to avoid most of Call Area A and the northern portion of Call Area B—all without compromising navigational safety.<sup>10</sup> Figure 1 updates the proposed fairways map in response to the final WEAs, in order to ensure that the proposed fairways stayed clear of the part of Call Area B that has been deemed by the U.S. Navy, U.S. Air Force, and National Aeronautics and Space Administration (NASA) to merit “further study” between now and BOEM’s issuance of the PSN.<sup>11</sup> We have also adjusted the angle of our proposed fairways to avoid requiring vessels to turn at too sharp an angle in order to stay within proposed fairways. The updated map is Figure 1 below.<sup>12</sup>

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<sup>10</sup> ACP Comments on Consolidated Atlantic Coast Port Access Route Studies (June 8, 2023) at 5-7, available at <https://www.regulations.gov/comment/USCG-2011-0351-0183> (“ACP Consolidated ACPARS Comments”).

<sup>11</sup> ACP deeply appreciates the collaboration among BOEM, the U.S. Department of Defense (DoD), and NASA to identify this area of further study, and looks forward to engaging with these agencies to address any remaining technical concerns.

<sup>12</sup> As described in detail in ACP’s comments to the USCG, the USCG’s process for designating fairway locations and widths uses a methodology that is lacking in transparency and does not appear to apply data on historical vessel traffic. ACP Consolidated ACPARS Comments at 3-4. But as noted above, there is no need to even reach this level of analysis because ACP’s proposed maps do not impact the number or width of USCG’s proposed fairways, but merely “rotates” them a few degrees.



**Figure 1 – Sources: BOEM, USCG, ACP**

Recognizing that further coordination with DoD and NASA is necessary to determine how much of the northern part of Call Area B is suitable for offshore wind leases, we estimate that this solution could increase overall energy capacity of the final WEAs by **85%**, from 6.3 GW to 11.7 GW. The potential increase in energy generating capacity available to interconnect directly into Maryland and Delaware would be even more dramatic: a **more than 150% increase** from 3.2 GW to 8.2 GW.

We are aware that Call Area A also contains commercial fishing activity, and we appreciate BOEM's historic sensitivity to such potential conflicts and share a desire to promote ocean co-use. However, as indicated in our comments on the draft WEAs, Call Area A is much less intensively fished than other portions of the Outer Continental Shelf that have already been leased.<sup>13</sup> Moreover, fisheries impacts can largely be minimized or mitigated through design

<sup>13</sup> Industry Comments on Draft WEAs at 13-14.



modifications and other measures at the COP stage—and any remaining impacts could be addressed through a fisheries compensation fund.<sup>14</sup>

In order to capture the benefits of this much-needed expansion of the final WEAs, BOEM must take the threshold step of granting itself more flexibility by analyzing a broader area in its lease sale EA. We believe this can be done without unduly delaying the leasing process, as BOEM would only be analyzing site characterization (surveys) and site assessment (meteorological buoy deployment) activities, whose effects are well known to BOEM and have resulted in findings of no significant impacts in all instances. We also note that the public would have a full opportunity to comment on larger final WEAs upon issuance of the PSN.

## **II. Increasing the Areas Analyzed in the EA Will Allow BOEM To More Efficiently Conduct the Next Central Atlantic Lease Sale**

An expanded EA also create efficiencies for the *next* Central Atlantic lease sale, should BOEM elect to adopt the model established by the Gulf of Mexico region's offshore wind leasing process.

While BOEM has indicated an interest in potential additional leasing in the Central Atlantic in deep water,<sup>15</sup> we first ask that BOEM consider including shallow water areas in this second Central Atlantic lease sale. In particular, leasing portions of Call Area D would greatly assist North Carolina in reaching its goal of 8 GW of offshore wind generation by 2040,<sup>16</sup> as well as further expanding the project pipeline needed to incentivize regional supply chain investments.

With respect to the current NOI, BOEM would save significant time and avoid duplicative efforts in the follow-up Central Atlantic Lease Sale if it analyzes the impacts of leasing all six Call Areas. The Gulf of Mexico region has adopted this approach:

BOEM's approach for this EA is to analyze the entire GOM Call Area rather than using the Area ID process to identify WEAs, followed by preparation of an EA covering only those areas to be considered for potential leasing. Although NEPA analysis is not required at the Area ID stage, BOEM has decided to prepare this EA prior to the identification of the WEAs as an exercise of agency discretion. This approach not only allows greater flexibility for future identification of WEAs but also provides NEPA

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<sup>14</sup> As BOEM is aware, ACP has been collaborating closely with states and the fishing industry on establishing a regional fisheries compensation fund that—while not a substitute for avoidance, minimization, and mitigation measures—can serve as a backstop for economic impacts during construction, operations, and decommissioning. See <https://offshorewindpower.org/fisheries-mitigation-project>.

<sup>15</sup> <https://www.boem.gov/renewable-energy/state-activities/central-atlantic>.

<sup>16</sup> See N.C. Executive Order No. 218, *available at* <https://files.nc.gov/governor/documents/files/EO218-Advancing-NCs-Economic-Clean-Energy-Future-with-Offshore-Wind.pdf>.





coverage for unsolicited requests for non-competitive commercial or research leases that could be received in the GOM Call Area.<sup>17</sup>

As noted in Section I above, BOEM could analyze the impacts of leasing a broader area without significantly extending the amount of time it would take to conduct the EA. Given its interest in conducting additional rounds of leasing within the region (and presumably within the same Call Areas), it would therefore be reasonable for BOEM to adopt a similar approach to the Gulf of Mexico Region at this stage of the Central Atlantic leasing process and streamline the process for future rounds of leasing.

### III. Conclusion

We appreciate BOEM's continued engagement with our organizations on offshore wind leasing in the Central Atlantic. Issuing the NOI to prepare an EA is a significant milestone in advance of holding an auction, and we recognize the extensive interagency coordination that has already taken place to reach this point. We respectfully ask that BOEM expand the geographic scope of the EA to encompass a wider range of areas within the Central Atlantic Call Areas. Although comments on the NOI are not due until August 31, 2023 and there is no prescribed form of public notice associated with EAs,<sup>18</sup> we are providing these comments well in advance of that deadline to help BOEM minimize any delay should it elect to publish an updated NOI with an expanded scope after considering these comments. We strongly believe that taking this action will best ensure a positive outcome as we all collectively work to build a domestic offshore wind industry and meet our state and federal goals.

Sincerely,

Josh Kaplowitz  
Vice President, Offshore Wind  
American Clean Power Association  
[Jkaplowitz@cleanpower.org](mailto:Jkaplowitz@cleanpower.org)

Evan Vaughan  
Executive Director  
MAREC Action  
[evaughan@marec.us](mailto:evaughan@marec.us)

Katharine Kollins  
President  
Southeastern Wind Coalition  
[katharinek@sewind.org](mailto:katharinek@sewind.org)

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<sup>17</sup> See [https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/GOM%20Wind%20Lease%20EA\\_0.pdf](https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/GOM%20Wind%20Lease%20EA_0.pdf) at 1-3.

<sup>18</sup> 43 CFR § 46.305.

# **APPENDIX A**



Vice Admiral, Kevin Lunday  
U.S. Coast Guard, Area Command  
4000 Coast Guard Blvd  
Portsmouth, VA 23703

June 8, 2023

**Re: Consolidated Atlantic Coast Port Approaches Route Studies**

*Submitted via regulations.gov Document ID: USCG-2011-0351-0174*

The American Clean Power Association (ACP)<sup>1</sup> appreciates this opportunity to provide comments in response to the Notice of an update to the Consolidated Port Approaches Port Access Route Studies (CPAPARS) published by the U.S. Coast Guard (USCG) in the federal registry on March 7, 2023.<sup>2</sup>

**I. Executive Summary**

While we acknowledge and appreciate improvements that have been made to the CPAPARS from the previous version, we encourage the USCG to reconsider the CPAPARS's current balance of navigational interests with other significant waterway uses, including offshore wind energy.

While USCG's interest in buffering against future uncertainty is understandable, we request that USCG propose fairway maps in its forthcoming rulemaking that are better tailored to the current and anticipated future needs of navigational safety and port access. Most importantly, ACP respectfully requests that USCG work with the Bureau of Ocean Energy Management (BOEM), the U.S. Department of Defense (DoD), and the National Aeronautics and Space Administration (NASA) to ensure that its proposed fairways in the Central Atlantic avoid Call Area A and the portions of Call Area B that are otherwise suitable for leasing based on BOEM's consultations with DoD and NASA.

ACP also recommends that USCG adopt a methodology for fairways width and location that better aligns with historical vessel traffic patterns and estimates of future vessel traffic account for existing and future technologies that could reduce the need for fairway space. Adjusting the methodology and taking these specific steps will both provide for navigational safety and facilitate the offshore wind industry's ability find the sea space necessary to create a sufficient project pipeline to revitalize the maritime sector, create a robust supply chain with

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<sup>1</sup> ACP is the national trade association representing the renewable energy industry in the United States, bringing together over 1,000 member companies and a national workforce located across all 50 states with a common interest in encouraging the deployment and expansion of renewable energy resources in the United States. By uniting the power of wind (both land-based and offshore), solar, storage, and transmission companies and their allied industries, we are enabling the transformation of the U.S. power grid to a low-cost, reliable, and renewable power system. The American Wind Energy Association (AWEA) merged into ACP on January 1, 2021. Additional information is available at <http://www.cleanpower.org>.

<sup>2</sup> Available at <https://www.regulations.gov/document/USCG-2011-0351-0174>





thousands of well-paying jobs, and achieve our clean energy deployment and energy security goals.

## **II. The Fairway Widths in CPAPARS Are Not Justified by Historical Vessel Density Data**

In order to achieve its objectives, a PARS must be data driven first and foremost. Yet USCG has not presented historical vessel density data or future projections supporting 9 nautical mile (nm) wide (or wider) fairways.<sup>3</sup> A “primary purpose” of the PARS process is “to the extent practicable, to reconcile the need for safe access routes with other reasonable water uses such as construction and operation of renewable energy facilities.”<sup>4</sup> Getting this balance correct is critical for the offshore wind industry because under the Ports and Waterways Safety Act (PWSA), once the USCG designates a fairway, “no artificial island or fixed structure,” whether temporary or permanent, may be located therein.<sup>5</sup> Informed and transparent marine spatial planning within the PARS process critically impacts our Nation’s long-term energy future. Achieving this difficult balance will necessitate further iterations and consistent stakeholder engagement.

To better strike this balance through data management, ACP recommends that USCG break AIS data down to monthly frequencies for visual images, and daily metrics, including vessel type, so that more granular and typical patterns of information can inform its analysis. We believe this approach, which better communicates traffic levels that mariners see on a daily basis, will be more useful than simply examining the blur of annual AIS tracks. Our previous comments have noted our concern that there is not enough evidence to support USCG’s current approach to fairway and traffic separation scheme (TSS) widths.<sup>6</sup> The most recent CPAPARS appears to continue this trend.

For instance, it can be counterproductive to use heat maps of annual data beyond their intent, as stated in US Coast Guard policy. The USCG Navigation Center produces “heat maps” that could be helpful in identifying where AIS-equipped vessel travel tends to concentrate and may be instructive to illustrate the potential placement of existing fairways and TSSs. However, such data, when displaying 365 days of traffic should not be relied upon as a standalone set of data. Among other data, we recommend that daily and or weekly data be presented. The Advanced Notice of Arrival (ANA) data, for vessels that are required to report, should also be considered to gain a better sense of the level of commercial vessel traffic on a given day. Heat maps may serve to identify popular traffic routes but may not reflect the density of traffic of daily vessel traffic.

Beyond the data used, a methodology is only as good as the assumptions that form its foundation, and USCG should consider reworking its methodology to better match fairway sizes

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<sup>3</sup> Though some of the PARS process is transparent, revisions to PARS can be difficult to parse out given current update language.

<sup>4</sup> See 46 U.S.C.A. § 70003(c)(3).

<sup>5</sup> See 46 U.S.C.A. § 70003.

<sup>6</sup> Available at <https://www.regulations.gov/search/comment?filter=ACP%20PARS>



to data driven needs. We believe it is important to acknowledge and reflect that unlike European and other regions where wind farms are not to be traversed, wind farms in U.S. waters/EEZ may be entered by vessels of appropriate size and maneuverability. This point is important, as several U.S. Coast Guard documents declare that wind farms cause “funneling of traffic” without acknowledging that smaller vessels will indeed flow through wind farms. Another potentially problematic methodology is from the 2018 report by the World Association for Waterborne Transport Infrastructure (PIANC) that advocates for overly expansive fairways to maximize shipping lanes. It is also important that the methodology be applied in the most transparent manner possible and avoid unsubstantiated calculations like “rounding up” unless sufficient data exists to justify the action. For example, while developing the width of a fairway in the Gulf of Maine, a 4 nautical mile (NM) total width was adopted when the formula borrowed from PIANC’s methodology would calculate a width of 3.33 NM, resulting in over a 20% increase from an already expansive baseline. This practice of “rounding up” naturally leads to wider fairways than the data would require and should be avoided.

Another deficiency in the PIANC model is that all vessel traffic density is grouped into only 3 categories. For example, if an area of study has less than 4,400 vessels transits per year it is treated as equivalent to as if it had 100 or fewer annual vessel transits. This approach could inflate fairway widths, especially when the gap between the averages in the model and actual data are large. Fairway widths should be applied consistently in similar situations, but the averaging of data does not produce well-tailored results. The PIANC model, when used in a PARS, appears designed for large international shipping straits and TSSs in mind. This lack of granularity is not particularly well suited to fairways being considered via the PARS process, and it is only natural that it would produce overly large fairway estimates.

The AIS traffic numbers that feed into the PIANC model are also important, and the lack of differentiation for ship type has massive ramifications. Recreational boating craft may have AIS, and fishing vessels may have AIS and/or other National Marine Fisheries Service tracking devices. This matters because such smaller vessels are allowed to enter wind farms, and the traffic associated with these smaller vessels should not be reflected as equal in fairway designs due to a model made to accommodate, for instance, 800-foot commercial ships.

### **III. USCG Should Adopt a Consistent and Tailored Methodology for Fairway Widths and Locations That Matches Data Variability.**

We request that USCG more thoroughly explain variability in fairway widths within and across regions, and adopt a methodology that harmonizes these differences in a transparent manner. There are a number of examples, several of which we outline below, that illustrate that with the same data—number of vessel transits, projected future traffics—there are different prescriptions for fairway widths. It appears that this discrepancy might be born from considerations for future vessel traffic. The estimated future volume of traffic should be only



what can be reasonably anticipated and should be rigorously calculated alongside anticipated technologies that enhance safety by improving spatial awareness of vessels.

The Coast Guard should base any proposed increases to the size and number of maritime fairways and buffers to account for future offshore routes on actual data. Such an approach reduces additional uncertainty that would push fairways to unnecessary widths, such as the 9 NM fairways in the CPAPARS. Untested extrapolations of vessel transit data do not facilitate better approximations of future conditions. Locations should be guided by actual, readable data, and avoid speculation on future increases in traffic without some firm basis to do so. The PARS, especially finalized and consolidated PARS, must strive to be a data-driven process, tied to actual data on traffic and waterway uses.

The PIANC methodology used in the individual Atlantic PARS does not provide a scientific basis for future vessel transits. In addition, the model does not take into account safety technologies, which continue to improve and bolster mariner safety. Significant technical improvements, such as increased use of AIS on commercial vessels, have improved safety within the current shipping lanes and TSSs. Further technological advances should be expected to continue to enhance maritime safety, as well as acknowledgement that wind turbines act as private aids to navigation. In fact, the US Coast Guard's treatment of fixed wind turbine generator sites as well-marked and lighted "Private Aids to Navigation" actually improves mariners' tools to establish or confirm their geographic location when in the vicinity.

These technical improvements, such as increased use of AIS on commercial vessels, have significantly improved safety within the current shipping lanes and TSSs. Further technological advances will continue to enhance maritime safety. There are also numerous examples of a high level of sustained navigational safety achieved in narrow environments over long distances, including Chesapeake Bay, Galveston Bay/Houston Ship Channel, the Mackinaw Straits, among other routes, and this efficient sorting of vessel traffic with no diminishment in safety should be embraced.

It is important to note there is a huge difference between fairway widths in the fairway systems described in 33 CFR 166, including the existing 2 NM wide Gulf of Mexico Fairway, that demonstrably provide adequate safety in Gulf of Mexico, as compared to the much greater widths proposed here, almost five times larger, without data showing a meaningfully greater density of traffic and navigational risk. 2 NM of fairway widths has proven effective in the more densely trafficked Gulf of Mexico; deviating from this approach warrants a reasoned, data-driven justification. Indeed, there are even 15NM width fairways being proposed in the draft PACPARS without comparable vessel density or other safety justifications. The number, width, and placement of additional cross-over routes through potential lease areas is particularly difficult to justify given that TSSs may serve the same purpose between near-shore and off-shore proposed fairways and/or navigation corridors in the Central Atlantic (CATL).



#### **IV. The CPAPARS, While Improved in Several Key Respects, Continues to Have Adverse Consequences for the Offshore Wind Industry.**

We do acknowledge that USCG has made tangible improvements to the most recent CPAPARS maps that help free up some potential leasing space in the Central Atlantic. However, the expanded width of the proposed fairways throughout the CPAPARS continues to have the aggregate effect of taking millions of acres of seabed—and hundreds of gigawatts (GW) of potential clean energy generation—out of consideration for potential offshore wind development. While we support the designation of navigational safety lanes in areas that are likely to contain offshore wind development, USCG's overly expansive approach could come at great cost to our nation's energy security, clean energy goals, and maritime economy. In light of the serious methodological concerns raised above, we urge USCG to scale back the average width of the fairways in its upcoming proposed rule, and tailor their sizes to demonstrated needs. In addition to this generalized critique, we have the following concerns related to specific geographic locations.

##### **a. The CPAPARS should better take into account that there must be robust leasing to foster supply chains and reach Federal and State renewable generation goals.**

As we noted in prior communications with USCG, robust central Atlantic leases are critical to growing the offshore wind industry's onshore supply chain and to meeting state and federal clean energy goals.<sup>7</sup> As it stands now, these potential lease areas are bisected by fairways that may be placed elsewhere, and we request that the USCG seriously consider moving the fairways to accommodate this vital lease area.

It is vital to the offshore wind industry for robust Central Atlantic lease areas with shallow water leases (Call Areas A-D) be available in order to create a pipeline of projects that will incentivize onshore supply chain and port investments while helping meet this Administration's goal of deploying 30 gigawatts (GW) of offshore wind by 2030. The Mid-Atlantic supply chain needs a pipeline of projects to be sustainable and which will help foster investment and job creation.

Additionally, Central Atlantic states have surging demand for offshore wind energy. Maryland just expanded its offshore wind target from 2 GW to 8.5 GW.<sup>8</sup> New Jersey recently expanded its procurement target to 11 GW.<sup>9</sup> Delaware is expected to add to this offshore wind demand. Virginia needs offshore marine space to grow from its current 5.2 GW mandate, and North Carolina has an 8 GW goal.<sup>10</sup> Current Mid-Atlantic leases are insufficient to meet these

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<sup>7</sup> See ACP letter to Admiral Wayne Arguin (Attachment A).

<sup>8</sup> Perkins Coie, *Maryland Commits to 8.5 GW of Offshore Wind by 2031, Looks Ahead to Offshore Wind Transmission*, available at <https://www.perkinscoie.com/en/news-insights/maryland-commits-to-85-gw-of-offshore-wind-by-2031-looks-ahead-to-offshore-wind-transmission.html>.

<sup>9</sup> Governor Phil Murphy, EXECUTIVE ORDER NO. 307 at 5, available at <https://nj.gov/infobank/eo/056murphy/pdf/EO-307.pdf>.

<sup>10</sup> Governor Roy Cooper, Executive Order No. 218 at 1, available at <https://governor.nc.gov/documents/files/executive-order-no-218/open>.



and anticipated future demands. Excessive fairway widths and extensive parallel and cross-over fairways eat away at available sea space. The industry is particularly interested in Call Areas A and B, which have the highest wind speeds of the areas under consideration and are most proximate to onshore grid interconnection points. Given that DoD and NASA have expressed concerns in Call Area B, we ask USCG to work with BOEM to ensure any fairways through B do not overlap with the areas that are most favorable from DoD and NASA's perspective.

We acknowledge that in key respects, these maps are an improvement over the prior CPAPARS maps in the Central Atlantic region. The proposed fairway through Call Area A has been narrowed from 7 NM to a more appropriate 4 NM width, which would free up incrementally more sea space for leasing. Additionally, you have eliminated one of the fairways through Call Area B. Your willingness to listen to our concerns and make these adjustments is greatly appreciated.

However, we believe additional changes can avoid these Call Areas while still achieving USCG's navigational safety objectives. ACP recommends USCG work with BOEM, DoD, and NASA to move the fairways situated in Call Areas A and B away from Call Areas that can otherwise be deconflicted (see Figure 1). We also propose other changes USCG should consider:

1. USCG could move the Off Delaware Bay to New Jersey Connector Fairway from its current location within Call Area A or extend that fairway only to the New Jersey to New York Connector Fairway.
2. USCG could narrow and move the Chesapeake Bay to Delaware Bay Eastern Approach Cutoff Fairway that currently bisects Call Area B. The volume of vessel traffic in the area is minor and most ships leaving Port of Virginia for points north are going to elect either the near shore or far shore route at the outset.<sup>11</sup> The data shows that few if any vessels switch from the near shore to far shore route, or vice versa. Thus, this fairway could be much narrower or moved without adversely affecting navigational safety.
3. USCG could reduce the Delaware Bay Fairway Anchorage (approximately 10,750 acres) as per the 2022 PARS to allow for less overlap with Call Area A.
4. USCG could reduce the Delaware Bay Southeastern Approach Precautionary Area to a 5NM radius and moved further offshore to accommodate vessel traffic and offshore wind development in Call Areas A and B.

There are many possibilities in which all water uses, and vessel traffic may coexist. It will take detailed engagement between agencies and stakeholders, but we can find an even more effective path forward to achieve our combined goals. Figure 1 provides visualizations for some of the recommendations above. We believe these fairways offer a more realistic balance between navigational safety/routing needs and critical offshore wind space.

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<sup>11</sup> Attachment A, at 2.





Figure 1.

## **b. The Hudson Canyon Fairways Appear to Overlap Existing Leases**

Figures 2 and 3 of the CPAPARS appears to show the proposed Hudson Canyon to Ambrose Southeastern and Barnegat to Narragansett Fairways overlapping, or coming close to overlapping, three BOEM leases in the New York Bight: OCS-A 537, OCS-A 538, and OCS-A 544.<sup>12</sup> We request that this fairway be narrowed to no more than a 1 NM buffer between the fairway and the boundaries of these leases. BOEM designated these leases in reliance on USCG input to ensure sufficient distance between their projects and future fairways, substantially reducing the areas under consideration for leasing no less than three times due to the potential for USCG fairway designations during the leasing process.<sup>13</sup> It could undermine the offshore wind industry's faith in the lease deconfliction process if USCG fairways subsequently encroached

<sup>12</sup> BOEM, New York Bight, available at <https://www.boem.gov/renewable-energy/state-activities/new-york-bight>.

<sup>13</sup> See, e.g., at New York Bight Area Identification Memorandum (March 26, 2021) at 16-20 (reducing New York Bight Call Areas due to imminent USCG fairway designations) (available at <https://www.boem.gov/sites/default/files/documents/renewable-energy/Memorandum%20for%20Area%20ID%20in%20the%20NY%20Bight.pdf>); Atlantic Wind Lease Sale 8 (ATLW-8) for Commercial Leasing for Wind Power on the Outer Continental Shelf in the New York Bight—Proposed Sale Notice, 86 FR 31524 (June 14, 2021) (eliminating two wind energy areas due to potential USCG fairways) (available at <https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/86-FR-31524.pdf>); Atlantic Wind Lease Sale 8 (ATLW-8) for Commercial Leasing for Wind Power on the Outer Continental Shelf (OCS) in the New York (NY) Bight—Final Sale Notice (FSN), 87 FR 2446 (January 14, 2022) (further reducing proposed lease areas due to potential USCG navigational concerns) (available at [https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/87-FR-2446\\_0.pdf](https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/87-FR-2446_0.pdf)).





upon, or otherwise constrained development on, the lease areas that survived this rigorous and collaborative deconfliction process.

**c. Overbroad Fairways in Carolina Long Bay Could Restrict Future Offshore Wind Development in the Region**

Figure 10 of the CPAPARS proposes to expand the width and length of fairways in the vicinity of the Ports of Wilmington and Morehead City, including the proposed St. Lucie to Hatteras Fairway. ACP is concerned that these fairways, if finalized, could unduly restrict future offshore wind leasing in Carolina Long Bay, which may be needed to meet state clean energy objectives and facilitate regional supply chain development. We request that the fairways in this region be right sized to historical vessel traffic patterns and narrowed so as to allow additional sea space for offshore wind leasing.

**V. Granular Safety Recommendations Are Best Addressed at Individual Project Scale**

USCG should avoid designating overbroad fairways for the additional reason that maritime safety concerns can be addressed on a project-specific basis through its review of navigation safety risk assessments (NSRAs) once an offshore wind project has been proposed on a lease. PARS are, in part, designed to preserve navigational corridors. Moreover, USCG has other options in the event that vessel traffic increases more than the model indicates at the time of fairway designation, like its authority to regulate and enhance safety measures where appropriate through the use of Regulated Navigation Areas, Safety Zones, Vessel Traffic Services, and a host of other IMO Routing measures.<sup>14</sup> These navigation safety management mechanisms are available as needed, and may also integrate new technologies, should future maritime traffic data portend the unforeseen use of such measures in specific areas in the future. Additionally, the lighting, marking and signals required for offshore wind structures by the U.S. Coast Guard, positively identify specific geographic points, and are considered to be “private aids to navigation,” enhancing navigation safety and alleviating the need for large buffers.

As the USCG wrote in the draft New York Bight PARS, “[t]here is no international standard that specifies minimum distances between shipping routes and fixed structures. However, it is widely accepted that fixed structures in the offshore environment should not interfere with navigation. The Marine Planning Guidelines (MPGs) provide general guidelines for siting of multiple structures near shipping routes and established ships routing measures. Each project will be assessed during the BOEM NEPA process on a case-by-case basis using the MPGs.” MPGs only apply to lanes and TSS and not to shipping safety fairways.

A NSRA is required during the project-specific COP development and review process managed by BOEM and in which the USCG is a cooperating agency. These site-specific risk assessments allow developers to work with local stakeholders to ensure mitigation measures are

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<sup>14</sup> International Maritime Organization, *Ships' routing*, Available at <https://www.imo.org/en/OurWork/Safety/Pages/ShipsRouteing.aspx#:~:text=Ships%27%20routeing%20measures%20adopted%20by%20IMO%20to%20improve,danger%20or%20especially%20sensitive%20ecological%20and%20environmental%20factors%29>.



appropriate. This process includes consideration of navigational risks to all types of vessels in the area. It allows safety measures and mitigation to be tailored to the needs of the USCG, vessel operators in the area and developers. Buffers between vessel transit and wind turbines should not be one-size-fits all but should set a threshold that may be extended if determined as necessary during the COP NSRA.

USCG should seek the right balance at this stage when it comes to buffers between vessel transit and wind energy uses. NSRAs are well-tailored to provide case-by-case analysis of the on-lease buffers that might be needed. This is especially the case with different and developing wind technologies, where we may not have a complete picture of the specific technology at this point in time.

## **VI. Conclusion**

Fairways designations should be grounded in evidence and should appropriately balance waterway uses. We understand the importance of the PARS process as being critical to high level marine spatial planning, and we urge USCG to employ more refined methodologies to better achieve a balance of waterway uses and defer project-specific analyses until after a COP has been submitted. ACP requests a meeting with the appropriate USCG headquarters and district leadership to discuss our overarching concerns regarding its PARS designation methodology. We have appreciated USCG's transparency throughout this process and look forward to continuing our dialogue regarding this pivotal issue.

Respectfully,

Josh Kaplowitz  
Vice President, Offshore Wind  
[Jkaplowitz@cleanpower.org](mailto:Jkaplowitz@cleanpower.org)  
American Clean Power Association



Attachment A:  
ACP letter to Admiral Wayne Arguin



Admiral Wayne Arguin  
United States Coast Guard Headquarters  
703 Martin Luther King Junior Avenue  
SE STOP 7000  
Washington, DC 20593

**Re: Offshore Wind Industry Relationship and Central Atlantic Leasing**  
**Submitted via email to [wayne.r.arguin@uscg.mil](mailto:wayne.r.arguin@uscg.mil)**

Dear Admiral Arguin,

Thank you for making time to meet with the American Clean Power Association (ACP) and three of our member companies on October 25, 2022. We appreciate the opportunity to begin our relationship with you and the Coast Guard Office of Prevention Policy in earnest, and to highlight some of the issues the offshore wind industry is working through. We also want to state at the outset that we greatly appreciate the spirit of collaboration that USCG has historically brought to its relationship with the offshore wind industry, and endeavor to deepen that relationship as our industry grows. In that vein, we reiterate our request to develop a Quality Partnership between the USCG and ACP to regularly communicate and discuss challenges, progress, and exchange important marine safety information as we move forward. We will be forwarding you a draft partnership with proposed language, and propose a kick-off meeting in January or February of 2023.

As you know, we are very concerned about the impact of the pending notice of proposed rulemaking to codify the Atlantic Coast Port Access Route Study (ACPARS) on the Bureau of Ocean Energy Management's (BOEM) upcoming Central Atlantic offshore wind lease sale. As discussed in our meeting on the 25th, it is vital to the offshore wind industry for BOEM to hold a robust Central Atlantic lease sale in areas with shallow water leases (Call Areas A-D) in order to create a pipeline of projects that will incentivize onshore supply chain and port investments while helping meet this administration's goal of deploying 30 gigawatts (GW) of offshore wind by 2030.

The industry is particularly interested in Call Area A and the northern part of Call Area B, which have the highest wind speeds and are most proximate to onshore grid interconnection points. At our meeting, we relayed how ACP and our members were surprised to learn that the Coast Guard Headquarters Office (CG NAV) had made significant changes to the supplemental PARS map that had been worked out with notice and comment and considerable stakeholder input through the First District (D1) and Fifth District (D5) PARS studies. We appreciated the opportunity to describe the conflicts, impacts and safety considerations associated with the Consolidated ACPARS issued on August 31, 2022 without reflecting or seeking stakeholder input, and shared the attached slide deck containing comparisons of the Districts and Consolidated PARS maps. We also described how changes adding new and wider fairways adversely affect use of both



existing leases and Call Areas A and B. And our members described alternatives based upon earlier work done by the Coast Guard in the First District (D1) and Fifth District (D5) PARS studies/reports.

Also at this meeting (and on page 4 of the attached slides), ACP members demonstrated that if the AIS data is peeled back to daily traffic, an average of less than two tug and tow vessel trips per day transit in the areas where CG NAV created several new 9 mile wide offshore routes. Our members demonstrated that the Consolidated AC PARS fairways brought tug and tow traffic too close to a wind farm, where it could be kept further seaward using the D1/D5 supplemental PARS map. We also demonstrated that it was unnecessary to add two 9-mile-wide “cross-over” fairways that overlap with Call Areas A and B, as the same AIS data does not demonstrate that tug and tow traffic has historically crossed back over from offshore to inshore routes. In response, we appreciated hearing from the Coast Guard that our concerns would be taken into consideration during the comment period, and that there was still the ability to modify the final fairways.

As noted above, the Biden Administration has committed to deploying 30 GW of offshore wind by 2030. The collective goal of ACP, USCG, BOEM, and maritime industries is the siting of offshore wind leases in harmony with the navigational needs of marine traffic. We have worked diligently and inclusively with other industries to constructively make use of marine space, including stakeholders who have a long history of partnership with the United States Coast Guard. The offshore wind industry would also like to further our relationship with the Coast Guard Office of Prevention Policy. We have invested considerable time and resources to constructively engage in the regional PARS processes with regional Coast Guard offices and stakeholders to determine synergies in co-uses of coastal marine space. For instance, we believe many of the attributes and marking features to identify turbine towers along wind farm boundaries are more akin to a “well marked channel,” so much so that marked turbine tower infrastructure would be better re-defined as a form of private aids to navigation (PATONs).

Our members have noted the need for greater communication, positivity, and understanding between our organizations. To that end, we were very pleased to invite the Deputy Commandant for Operations, Vice Admiral Peter Gautier, to be a keynote speaker at our annual Offshore WINDPOWER Conference earlier this month. He was gracious with his time, and listened intently to a briefing from members. We have also had meetings with several other senior USCG officials, including a meeting on October 11 at USCG HQ with Michael Emerson and on October 26 with Admiral Shannon Gilreath in District 5, in which we expressed the same concerns and aspirations.

Again, thank you for making time to meet with us. We wish to continue to develop our dialogue with your office, including our proposal for a Quality Partnership. In the meantime, we remain hopeful that the Coast Guard will revert to the fairway routes proposed by the First and Fifth Coast Guard Districts, and are prepared to walk through the merits of those routes again at your convenience.



Sincerely,

A handwritten signature in black ink, appearing to read "Josh Kaplowitz".

Josh Kaplowitz  
Vice President, Offshore Wind  
American Clean Power Association

A handwritten signature in black ink, appearing to read "Claire Richer".

Claire Richer  
Director, Offshore Wind  
American Clean Power Association

Cc: Vice Admiral Peter Gautier, Deputy Commandant for Operations (DCO)  
Rear Admiral Michael Ryan, Deputy DCO  
Michael Emerson, Director, Marine Transportation Systems  
Amanda Lefton, Director, BOEM  
Karen Baker, Chief, Office of Renewable Energy Programs (OREP), BOEM  
David MacDuffee, Chief, Project Coordination Branch, OREP, BOEM

Attachment: Central Atlantic Reference Maps PowerPoint