

IV. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a state, local, or tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. This rule does not include any Federal mandate that may result in expenditures by state, local, or tribal governments, or by the private sector in excess of that threshold.

V. Executive Order 13132: Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on state and local governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This regulation does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive order.

Statement of Availability of IRS Documents

IRS Notices and other guidance cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at https://www.irs.gov.

Drafting Information

The principal authors of these regulations are D. Peter Merkel and Caleb W. Trimm of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, the Treasury Department and IRS amend 26 CFR part 1 as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by revising the entry for § 1.882-5 to read in part as follows:

Authority: 26 U.S.C. 7805 \* \* \*

Section 1.882-5 also issued under 26 U.S.C. 882(c), 26 U.S.C. 864(e), 26 U.S.C. 988(d), and 26 U.S.C. 7701(l).

Par. 2. Section 1.882-5 is amended by revising the fourth sentence of paragraph (a)(7)(i) and paragraphs (d)(5)(ii)(B) and (f) to read as follows:

§ 1.882-5 Determination of interest deduction.

(a) \* \* \*

(7) \* \* \*

(i) \* \* \* An elected method (other than the fair market value method under paragraph (b)(2)(ii) of this section, or the published rate election in paragraph (d)(5)(ii) of this section) must be used for a minimum period of five years before the taxpayer may elect a different method. \* \* \*

\* \* \* \* \*

(d) \* \* \*

(5) \* \* \*

(ii) \* \* \*

(B) Annual published rate election— (1) In general. For each taxable year in which a taxpayer is a bank within the meaning of section 585(a)(2)(B) (without regard to the second sentence of section 585(a)(2)(B) or whether any such activities are effectively connected with a trade or business within the United States), the taxpayer may elect to compute the interest expense attributable to excess U.S.-connected liabilities by using the average published one-month Term Secured Overnight Financing Rate published by the Chicago Mercantile Exchange Group Benchmark Administration, Ltd. (or any successor administrator) ("Term SOFR") for the taxable year, plus a static spread adjustment of 0.11448%, rather than the interest rate provided in paragraph (d)(5)(ii)(A) of this section. A taxpayer may elect to apply the rate provided in this paragraph (d)(5)(ii)(B) on an annual basis and does not require the consent of the Commissioner to change this election in a subsequent taxable year. If a taxpayer that is eligible to make the published rate election either does not file a timely return or files a calculation with no excess U.S.-connected liabilities and it is later determined by the Director of Field Operations that the taxpayer has excess U.S.-connected liabilities, then the Director of Field Operations will apply the interest rate

provided under this paragraph (d)(5)(ii)(B) to the taxpayer's excess U.S.-connected liabilities in determining interest expense.

(2) Transitional rule for taxable years including June 30, 2023. For a taxable year that includes June 30, 2023, a taxpayer that makes the annual published rate election must compute the interest expense attributable to excess U.S.-connected liabilities by ratably using the average 30-day U.S. dollar London Interbank Offered Rate for the portion of its taxable year ending on June 30, 2023, and the average one-month Term SOFR, plus a static spread adjustment of 0.11448%, for the portion of its taxable year beginning on July 1, 2023.

\* \* \* \* \*

(f) Applicability date—(1) General rule. Except as provided in paragraph (f)(3) of this section, this section is applicable for tax years ending on or after August 15, 2009. A taxpayer, however, may choose to apply § 1.882-5T, rather than applying the regulations in this section, for any taxable year beginning on or after August 16, 2008, but before August 15, 2009.

(2) [Reserved]

(3) Applicability date for published rate election. Paragraphs (a)(7)(i) and (d)(5)(ii)(B) of this section apply to taxable years ending after June 30, 2023. For taxable years ending before July 1, 2023, see § 1.882-5(d)(5)(ii)(B) (as contained in 26 CFR part 1, revised as of April 1, 2023).

Douglas W. O'Donnell, Deputy Commissioner for Services and Enforcement.

Approved: June 19, 2023.

Lily Batchelder, Assistant Secretary of the Treasury (Tax Policy).

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 310

[Docket ID: DOD-2023-OS-0044]

RIN 0790-AL54

Privacy Act of 1974; Implementation

AGENCY: Office of the Secretary of Defense, Department of Defense (DoD).

ACTION: Direct final rule.

SUMMARY: The DoD is amending its regulations to remove the exemption rules associated with 14 systems of

records notices (SORNs) established for the DoD Components listed in the **SUPPLEMENTARY INFORMATION** section, under the Privacy Act of 1974, as amended.

Elsewhere in this issue of the **Federal Register**, the DoD is giving concurrent notice of the rescindment of 26 SORNs, including those that correspond to the exemption rules being removed by this rule amendment. This rule is being published as a direct final rule as the Department does not expect to receive any adverse comments. If such comments are received, this direct final rule will be withdrawn and a proposed rule for comments will be published.

**DATES:** The rule is effective on September 8, 2023, unless comments are received that would result in a contrary determination. Comments will be accepted on or before August 29, 2023.

**ADDRESSES:** You may submit comments, identified by docket number, Regulation Identifier Number (RIN), and title, by any of the following methods.

\* *Federal Rulemaking Portal:* <https://www.regulations.gov>.

Follow the instructions for submitting comments.

\* *Mail:* Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350-1700.

*Instructions:* All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <https://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rahwa Keleta, *OSD.DPCLTD@mail.mil*, (703) 571-0070.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Privacy Act Exemption**

The DoD is amending 32 CFR part 310 to remove the exemption rules associated with the following 14 systems of records notices (SORNs) established for the DoD Components.

###### Department of the Air Force SORNs

System identifier and name. F051 AFJA I, Military Justice and Magistrate Court Records

System identifier and name. F033 AF A, Information Requests—Freedom of Information Act

System identifier and name. F033 AF B, Privacy Act Request File

###### Department of the Army SORN

System identifier and name. A0340-21 OAA, Privacy Case Files

###### Department of the Navy SORNs

System identifier and name. NM05211-1, Privacy Act Request/Amendment Files and Tracking System

System identifier and name. NM05720-1, FOIA Request/Appeal Files and Tracking System

###### Defense Intelligence Agency SORN

System identifier and name. LDIA 0010, Information Requests-Freedom of Information Act (FOIA) and Privacy Act

###### Defense Logistics Agency SORN

System identifier and name. S510.30, Freedom of Information Act/Privacy Act Requests and Administrative Appeal Records

###### Defense Security Service SORN

System identifier and name. V1-01, Privacy and Freedom of Information Request Records

###### Defense Threat Reduction Agency SORN

System identifier and name. HDTRA 021, Freedom of Information Act and Privacy Act Case Files

###### National Guard Bureau SORN

System identifier and name. INGB 001, Freedom of Information Act (FOIA) and Privacy Act (PA) Case Files

###### Office of the Inspector General SORN

System identifier and name. CIG-01, Privacy Act and Freedom of Information Act Case Files

###### Office of the Secretary of Defense SORNs

System identifier and name. DWHS E02, Freedom of Information Act (FOIA) Case Files

System identifier and name. DWHS E04, Privacy Act Case Files

The Privacy Act permits Federal agencies to exempt eligible records in a system of records from certain provisions of the Act, including the provisions providing individuals with a right to request access to and amendment of their own records and accountings of disclosures of such records. If an agency intends to exempt a particular system of records, it must first go through the rulemaking process to provide public notice and an opportunity to comment on the exemption.

When a system of records is no longer required to be collected or maintained, the system of records may be

discontinued. The notice for that system of record is rescinded in the **Federal Register**, and the records covered by the rescinded system of records are lawfully transferred or disposed of in accordance with applicable requirements. At the time of rescindment or following rescindment for the system of records notice, Federal agencies will seek to also rescind the associated exemption rules within the Code of Federal Regulations.

##### **II. Direct Final Rulemaking**

This rule is being published as a direct final rule as the Department does not expect to receive any significant adverse comments. If such comments are received, this direct final rule will be cancelled and a proposed rule for comments will be published. If no such comments are received, this direct final rule will become effective 10 days after the comment period expires.

For purposes of this rulemaking, a significant adverse comment is one that explains (1) why the rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the rule will be ineffective or unacceptable without a change. In determining whether a significant adverse comment necessitates withdrawal of this direct final rule, the Department will consider whether the comment raises an issue serious enough to warrant a substantive response had it been submitted in a standard notice-and-comment process. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains how this direct final rule would be ineffective without the addition.

The DoD is modifying 32 CFR part 310 by rescinding the following regulation provisions (in their entirety) due to the underlying SORNs being rescinded (most of them concurrently by associated public notice):

- 32 CFR 310.14(e)(7), System identifier and name. F051 AF JA F, Courts—Martial and Article 15 Records.
- 32 CFR 310.14(f)(20), System identifier and name. F033 AF A, Information Requests—Freedom of Information Act.
- 32 CFR 310.14(f)(21), System identifier and name. F033 AF B, Privacy Act Request Files.
- 32 CFR 310.15(g)(21), System identifier and name. A0340-21 OAA, Privacy Case Files.
- 32 CFR 310.16(a)(22), System identifier and name. NM05211-1, Privacy Act Request Files and Tracking System.
- 32 CFR 310.16(a)(23), System identifier and name. NM05720-1, FOIA

Request/Appeal Files and Tracking System.

- 32 CFR 310.20(b)(8), System identifier and name. LDIA 0010, Information Requests—Freedom of Information Act (FOIA) and Privacy Act.

- 32 CFR 310.21(c)(6), System identifier and name. S510.30, Freedom of Information Act/Privacy Act Requests and Administrative Appeal Records.

- 32 CFR 310.22(b)(1), System identifier and name. V1–01, Privacy and Freedom of Information Request Records.

- 32 CFR 310.23(a)(3), System identifier and name. HDTRA 021, Freedom of Information Act and Privacy Act Request Case Files.

- 32 CFR 310.25(e)(1), System identifier and name. INGB 001, Freedom of Information Act (5 U.S.C.) and Privacy Act (5 U.S.C. 552a) Case Files.

- 32 CFR 310.28(c)(5), System identifier and name. CIG 01, Privacy Act and Freedom of Information Act Case Files.

- 32 CFR 310.29(c)(12), System identifier and name. DFOISR 05, Freedom of Information Act Case Files.

- 32 CFR 310.29(c)(13), System identifier and name. DFOISR 10, Privacy Act Case Files.

### Regulatory Analysis

#### Executive Order 12866, “Regulatory Planning and Review” and Executive Order 13563, “Improving Regulation and Regulatory Review”

Executive Orders 12866 and 13563 direct agencies to assess all 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, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. It has been determined that this rule is not a significant regulatory action under these Executive orders.

#### Congressional Review Act (5 U.S.C. 804(2))

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. DoD will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and

the Comptroller General of the United States. A major rule may take effect no earlier than 60 calendar days after Congress receives the rule report or the rule is published in the **Federal Register**, whichever is later. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

#### Section 202, Public Law 104–4, “Unfunded Mandates Reform Act”

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532) requires agencies to assess anticipated costs and benefits before issuing any rule whose mandates may result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, in any one year of \$100 million in 1995 dollars, updated annually for inflation. This rule will not mandate any requirements for State, local, or tribal governments, nor will it affect private sector costs.

#### Public Law 96–354, “Regulatory Flexibility Act” (5 U.S.C. 601 *et seq.*)

The Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency has certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule is concerned only with the administration of Privacy Act systems of records within the DoD. Therefore, the Regulatory Flexibility Act, as amended, does not require DoD to prepare a regulatory flexibility analysis.

#### Public Law 96–511, “Paperwork Reduction Act” (44 U.S.C. Chapter 501 *et seq.*)

The Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*) was enacted to minimize the paperwork burden for individuals; small businesses; educational and nonprofit institutions; Federal contractors; State, local, and tribal governments; and other persons resulting from the collection of information by or for the Federal Government. The Act requires agencies to obtain approval from the Office of Management and Budget before using identical questions to collect information from ten or more persons. This rule does not impose reporting or recordkeeping requirements on the public.

#### Executive Order 13132, “Federalism”

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct

requirement costs on State and local governments, preempts State law, or otherwise has federalism implications. This rule will not have a substantial effect on State and local governments.

#### Executive Order 13175, “Consultation and Coordination With Indian Tribal Governments”

Executive Order 13175 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct compliance costs on one or more Indian tribes, preempts tribal law, or affects the distribution of power and responsibilities between the Federal Government and Indian tribes. This rule will not have a substantial effect on Indian tribal governments.

#### List of Subjects in 32 CFR Part 310

Privacy.

Accordingly, 32 CFR part 310 is amended as follows:

#### PART 310—PROTECTION OF PRIVACY AND ACCESS TO AND AMENDMENT OF INDIVIDUAL RECORDS UNDER THE PRIVACY ACT OF 1974

■ 1. The authority citation for 32 CFR part 310 continues to read as follows:

**Authority:** 5 U.S.C. 552a.

#### § 310.14 [Amended]

■ 2. Amend § 310.14 by removing and reserving paragraphs (e)(7) and (f)(20) and (21).

#### § 310.15 [Amended]

■ 3. Amend § 310.15 by removing and reserving paragraph (g)(21).

#### § 310.16 [Amended]

■ 4. Amend § 310.16 by removing and reserving paragraphs (a)(22) and (23).

#### § 310.20 [Amended]

■ 5. Amend § 310.20 by removing and reserving paragraph (b)(8).

#### § 310.21 [Amended]

■ 6. Amend § 310.21 by removing and reserving paragraph (c)(6).

#### § 310.22 [Amended]

■ 7. Amend § 310.22 by removing and reserving paragraph (b)(1).

#### § 310.23 [Amended]

■ 8. Amend § 310.23 by removing paragraph (a)(3).

#### § 310.25 [Amended]

■ 9. Amend § 310.25 by removing and reserving paragraph (e)(1).

**§ 310.28 [Amended]**

■ 10. Amend § 310.28 by removing and reserving paragraph (c)(5).

**§ 310.29 [Amended]**

■ 11. Amend § 310.29 by removing and reserving paragraphs (c)(12) and (13).

Dated: June 27, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison  
Officer, Department of Defense.

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 147

[Docket Number USCG–2023–0277]

RIN 1625–AA00

#### Safety Zone; Vineyard Wind 1 Wind Farm Project Area, Outer Continental Shelf, Lease OCS–A 0501, Offshore Massachusetts, Atlantic Ocean

**AGENCY:** Coast Guard, Department of Homeland Security (DHS).

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing 63 temporary 500-meter safety zones around the construction of 62 wind turbine generators (WTGs) and one electrical service platform (ESP) located in the Vineyard Wind 1 Wind Farm (VW1WF) project area within federal waters on the Outer Continental Shelf (OCS), specifically in the northern portion of Bureau of Ocean Energy Management (BOEM) Renewable Energy Lease Area OCS–A 0501, approximately 12 nautical miles (NM) offshore of Martha’s Vineyard, Massachusetts and 12 NM offshore Nantucket, Massachusetts. This action is necessary to provide for the safety of life, property, and the environment during the planned construction of each facility’s monopile type foundation and subsequent installation of the WTGs turbines and ESP platform from June 27, 2023, to May 31, 2024. When enforced, only attending vessels and those vessels specifically authorized by the First Coast Guard District Commander, or a designated representative, are permitted to enter or remain in the temporary safety zones.

**DATES:** This rule is effective without actual notice from June 30, 2023, through 11:59 p.m. on May 31, 2024. For the purposes of enforcement, actual notice will be used from June 27, 2023, until June 30, 2023.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2023–0277 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rulemaking, call or email Mr. Craig Lapiejko, Waterways Management, at Coast Guard First District, telephone 617–603–8592, email [craig.d.lapiejko@uscg.mil](mailto:craig.d.lapiejko@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

BOEM Bureau of Ocean Energy Management  
BNM Broadcast Notice to Mariners  
CFR Code of Federal Regulations  
DD Degrees Decimal  
DHS Department of Homeland Security  
EIS Environmental Impact Statement  
FR Federal Register  
MSIB Marine Safety Information Bulletin  
NPRM Notice of proposed rulemaking  
OCS Outer Continental Shelf  
OSS Offshore Substation  
LNM Local Notice to Mariners  
NAD 83 North American Datum of 1983  
NM Nautical Mile  
§ Section  
SMIB Safety Marine Information Broadcast  
U.S.C. United States Code  
WTG Wind Turbine Generator  
VHF–FM Very High Frequency—Frequency Modulation  
VW1WF Vineyard Wind 1 Wind Farm

##### II. Background, Purpose, and Legal Basis

On March 15, 2023, Vineyard Wind, LLC, an offshore wind farm developer, notified the Coast Guard that they plan to begin construction of facilities in the VW1WF project area within federal waters on the OCS, specifically in the northern portion of BOEM Renewable Energy Lease Area OCS–A 0501, approximately 12 NM offshore Martha’s Vineyard, Massachusetts and 12 NM offshore Nantucket, Massachusetts in June 2023.

After determining that establishment of safety zones was necessary to provide for the safety of life, property, and the environment during the anticipated construction of the structures, on May 3, 2023, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Safety Zone; Vineyard Wind 1 Wind Farm Project Area, Outer Continental Shelf, Lease OCS–A 0501, Offshore Massachusetts, Atlantic Ocean” (88 FR 27839). There we explained the basis for the NPRM and invited comments on our proposed regulatory action related to the

establishment of safety zones around the construction of 62 WTGs and one ESP located in the VW1WF project area. Five comments were received during the comment period that ended June 2, 2023.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The comment period for the NPRM associated with the VW1WF project area ended on June 2, 2023, and construction for the project has already begun. Thus, there is insufficient time to allow for 30-days before the rule becomes effective. Delaying the effective date of this rule would be impracticable because immediate action is needed to respond to the potential safety risks associated with the extremely complex and unusually hazardous construction of these OCS facilities including hydraulic pile driving hammer operations, heavy lift operations, overhead cutting operations, potential falling debris, increased vessel traffic, and stationary barges in close proximity to the facilities and each other.

Based on these circumstances, the First Coast Guard District Commander has determined that establishment of 63 safety zones through rulemaking is warranted to ensure the safety of life, property, and the environment within a 500-meter radius of each of the 63 facilities during their construction.

##### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under the authority provided in 14 U.S.C. 544, 43 U.S.C. 1333, and Department of Homeland Security (DHS) Delegation No. 00170.1, Revision No. 01.3. As an implementing regulation of this authority, 33 CFR part 147 permits the establishment of safety zones for non-mineral energy resource permanent or temporary structures located on the OCS for the purpose of protecting life and property on the facilities, appurtenances and attending vessels, and on the adjacent waters within the safety zone (see 33 CFR 147.10). Accordingly, a safety zone established under 33 CFR part 147 may also include provisions to restrict, prevent, or control certain activities, including access by vessels or persons to maintain safety of life, property, and the environment.

##### IV. Discussion of Comments, Changes, and the Rule

As noted above, the Coast Guard received five public comments on the NPRM published May 3, 2023. All five commenters expressed general opposition to wind farm construction.