

and any response or reply and may request and review such additional documents or information as they deem relevant to render a decision and may, at their sole discretion, conduct a hearing consistent with § 808.3. All parties will be provided with a reasonable opportunity to review and address any additional documents or information deemed relevant by the presiding officer to render a decision. Additional documents and information deemed relevant by the presiding officer will be included in the record.

(g) *Findings and Report.* Upon completing an evaluation of the protest, the presiding officer shall prepare a report of their findings and recommendations based on the record. The report shall be served by electronic mail or certified mail upon each party to the proceeding. Any party may file objections to the report. Such objections to the report shall be filed with the Commission and served on all parties within 20 calendar days after service of the report. A brief shall be filed together with the objections. Any replies to the objections and briefs will be filed and served on all parties within ten calendar days of service of the objections. Prior to its decision on such objections, the Commission may, in its sole discretion, grant a request for oral argument.

(h) *Action by the Commission.* The Commission will review the findings and recommendations of the presiding officer and the objections and render a determination. The Commission's determination will be in writing and will be served by electronic or certified mail upon each party to the proceeding.

(i) *Appeal.* Any final action by the Commission may be appealed to the appropriate United States District Court within 90 days as set forth in § 3.10(6) and Federal reservation (o) of the Compact.

(j) *Record of Determination.* The Commission's record of determination for review by the court shall consist of the solicitation; the contract, if any; the administrative record of the protest before the presiding officer; the report of the presiding officer, along with any objections and replies filed; transcripts and exhibits, if any; and the final determination of the Board of Commissioners.

(k) *Stay of Procurement During Pendency of Protest.* In the event a protest is filed timely under this section, the purchasing officer shall not proceed further with the solicitation or with the award of the contract unless and until the Executive Director makes a written determination that the protest is clearly without merit, or that award of the contract without delay is necessary to

protect substantial interests of the Commission, or until the Commission enters a final determination under paragraph (h) of this section.

(l) *Exclusive Procedure.* This section shall be the exclusive procedure for protesting a solicitation or award of a contract by a bidder or offeror, a prospective bidder or offeror or a prospective contractor that is aggrieved in connection with the solicitation or award of a contract by the Commission.

Dated: March 18, 2024.

Jason E. Oyler,

Secretary to the Commission.

[FR Doc. 2024-06035 Filed 3-20-24; 8:45 am]

BILLING CODE 7040-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 147

[Docket Number USCG-2024-0134]

RIN 1625-AA00

Safety Zone; Revolution Wind Farm Project Area, Outer Continental Shelf, Lease OCS-A 0486, Offshore Rhode Island, Atlantic Ocean

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish 67 temporary safety zones around the construction of each facility during the development of the Revolution Wind Farm project area within Federal waters on the Outer Continental Shelf, specifically in the Bureau of Ocean Energy Management Renewable Energy Lease Area OCS-A 0486, approximately 15 nautical miles offshore southeast of Point Judith, Rhode Island. This action protects life, property, and the environment during construction of each facility from June 1, 2024, to May 31, 2027. When enforced, only attending vessels and vessels with authorization are permitted to enter or remain in the temporary safety zones.

DATES: Comments and related material must be received by the Coast Guard on or before April 22, 2024.

ADDRESSES: You may submit comments identified by docket number USCG-2024-0134 using the Federal Decision-Making Portal at <https://www.regulations.gov>. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting

comments. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

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

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

BOEM Bureau of Ocean Energy Management

CFR Code of Federal Regulations

DD Degrees Decimal

DHS Department of Homeland Security

FR Federal Register

NPRM Notice of Proposed Rulemaking

OCS Outer Continental Shelf

OSS Offshore Substation

NAD 83 North American Datum of 1983

NM Nautical Mile

RWF Revolution Wind Farm

§ Section

U.S.C. United States Code

WTG Wind Turbine Generator

II. Background, Purpose, and Legal Basis

On February 2, 2024, Orsted, an offshore wind farm developer, notified the Coast Guard that they plan to begin construction of the Revolution Wind facilities in the Revolution Wind Farm (RWF) project area within Federal waters on the Outer Continental Shelf (OCS), specifically in the Bureau of Ocean Energy Management (BOEM) Renewable Energy Lease Area OCS-A 0486, approximately 15 nautical miles (NM) offshore southeast of Point Judith, Rhode Island, 32 NM southeast of the Connecticut coast and 12 NM southwest of Martha's Vineyard, Massachusetts in June 2024.

The extremely complex offshore construction of these OCS facilities presents many unusually hazardous conditions 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 67 temporary 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 67 facilities during their construction.

The Coast Guard is proposing this rule under the authorities 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.

III. Discussion of Proposed Rule

The District Commander is proposing to establish 67 temporary 500-meter safety zones around the construction of 65 WTGs and two OSS on the OCS from June 1, 2024, through 11:59 p.m. on May 31, 2027.

The construction of these facilities is expected to take place in mixed phases

alternating between the installation of several monopile type foundations followed by the installation of the upper structures then repeating this process throughout the project area until all 67 facilities have been completed. The 67 temporary safety zones would be enforced individually as construction progresses from one structure location to the next throughout the entire process for a period lasting approximately 48 hours. The Coast Guard would make notice of each enforcement period via the Local Notice to Mariners and issue a Broadcast Notice to Mariners via marine channel 16 (VHF-FM) as soon as practicable in response to an emergency or hazardous condition. The Coast Guard is publishing this rulemaking to be effective, and enforceable, through May 31, 2027, to encompass any construction delays due to weather or other unforeseen circumstances. If, as currently scheduled, the project is completed before May 31, 2027, enforcement of the safety zones would be suspended, and notice given via Local Notice to Mariners.

Additional information about the construction process of the RWF can be found at <https://www.boem.gov/renewable-energy/state-activities/revolution-wind>.

The 67 temporary 500-meter safety zones around the construction of 65 WTGs and two OSS are in the RWF project area, specifically in the BOEM Renewable Energy Lease Area OCS-A 0486, approximately 15 nautical NM offshore southeast of Point Judith, Rhode Island, 32 NM southeast of the Connecticut coast and 12 NM southwest of Martha's Vineyard, Massachusetts.

The positions of each individual safety zone proposed by this rulemaking will be referred to using a unique alphanumeric naming convention outlined in the "Rhode Island and Massachusetts Structure Labeling Plot (West)".¹

Aligning with authorities under 33 CFR 147.15, the proposed safety zones would include the area within 500-meters of the center point of the positions provided in the table below expressed in Degrees (°) Minutes (') (DM) based on North American Datum 1983 (NAD 83).

Name	Facility Type	Latitude	Longitude
AE06	WTG	41°13.555' N	71°10.367' W
AE07	WTG	41°13.575' N	71°09.050' W
AE08	WTG	41°13.603' N	71°07.719' W
AE09	WTG	41°13.632' N	71°06.402' W
AE10	WTG	41°13.652' N	71°05.081' W
AE11	WTG	41°13.676' N	71°03.763' W
AF05	WTG	41°12.528' N	71°11.647' W
AF06	WTG	41°12.554' N	71°10.336' W
AF08	OSS	41°12.607' N	71°07.702' W
AF09	WTG	41°12.628' N	71°06.375' W
AF10	WTG	41°12.652' N	71°05.051' W
AF11	WTG	41°12.676' N	71°03.738' W
AG04	WTG	41°11.504' N	71°12.944' W
AG05	WTG	41°11.529' N	71°11.625' W
AG06	WTG	41°11.554' N	71°10.302' W
AG07	WTG	41°11.579' N	71°08.984' W
AG08	WTG	41°11.606' N	71°07.660' W
AG09	WTG	41°11.625' N	71°06.359' W
AH04	WTG	41°10.503' N	71°12.921' W
AH05	WTG	41°10.529' N	71°11.594' W
AH06	WTG	41°10.548' N	71°10.276' W
AH07	WTG	41°10.586' N	71°08.946' W
AH08	WTG	41°10.610' N	71°07.622' W
AH09	WTG	41°10.632' N	71°06.307' W
AJ02	WTG	41°09.452' N	71°15.530' W
AJ03	WTG	41°09.470' N	71°14.213' W
AJ04	WTG	41°09.502' N	71°12.896' W
AJ05	WTG	41°09.528' N	71°11.478' W
AJ06	WTG	41°09.563' N	71°10.243' W
AJ07	WTG	41°09.578' N	71°08.919' W
AJ08	WTG	41°09.604' N	71°07.612' W
AJ09	WTG	41°09.633' N	71°06.319' W
AJ10	WTG	41°09.638' N	71°04.949' W
AJ11	OSS	41°09.675' N	71°03.617' W
AJ12	WTG	41°09.695' N	71°02.297' W
AJ13	WTG	41°09.737' N	71°00.954' W
AJ14	WTG	41°09.748' N	70°59.654' W

¹ The Rhode Island and Massachusetts Structure Labeling Plot (West) is an attachment to the Conditions of Construction and Operations Plan

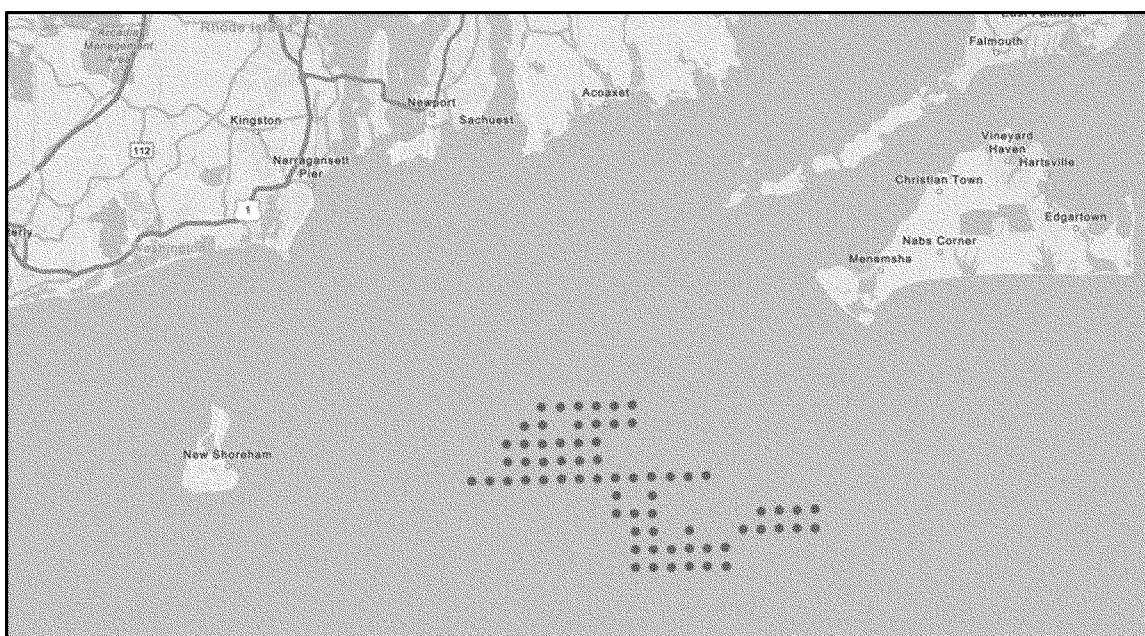
Approval Lease Number OCS-A 0517 (boem.gov) and can be found at <https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/SFWF-COP-Terms-and-Conditions.pdf>.

Name	Facility Type	Latitude	Longitude
AJ15	WTG	41°09.757' N	70°58.367' W
AK10	WTG	41°08.654' N	71°04.935' W
AK12	WTG	41°08.699' N	71°02.260' W
AL10	WTG	41°07.652' N	71°04.840' W
AL11	WTG	41°07.666' N	71°03.554' W
AL12	WTG	41°07.652' N	71°02.224' W
AL18	WTG	41°07.834' N	70°54.300' W
AL19	WTG	41°07.856' N	70°52.968' W
AL20	WTG	41°07.876' N	70°51.651' W
AL21	WTG	41°07.887' N	70°50.387' W
AM11	WTG	41°06.666' N	71°03.547' W
AM12	WTG	41°06.680' N	71°02.252' W
AM14	WTG	41°06.705' N	70°59.567' W
AM17	WTG	41°06.796' N	70°55.614' W
AM18	WTG	41°06.833' N	70°54.272' W
AM19	WTG	41°06.862' N	70°52.937' W
AM20	WTG	41°06.877' N	70°51.626' W
AM21	WTG	41°06.904' N	70°50.325' W
AN11	WTG	41°05.666' N	71°03.499' W
AN12	WTG	41°05.703' N	71°02.118' W
AN13	WTG	41°05.675' N	71°00.836' W
AN14	WTG	41°05.801' N	70°59.538' W
AN15	WTG	41°05.760' N	70°58.223' W
AN16	WTG	41°05.792' N	70°56.911' W
AP11	WTG	41°04.671' N	71°03.482' W
AP12	WTG	41°04.697' N	71°02.144' W
AP13	WTG	41°04.731' N	71°00.873' W
AP14	WTG	41°04.746' N	70°59.423' W
AP15	WTG	41°04.766' N	70°58.180' W
AP16	WTG	41°04.788' N	70°56.858' W

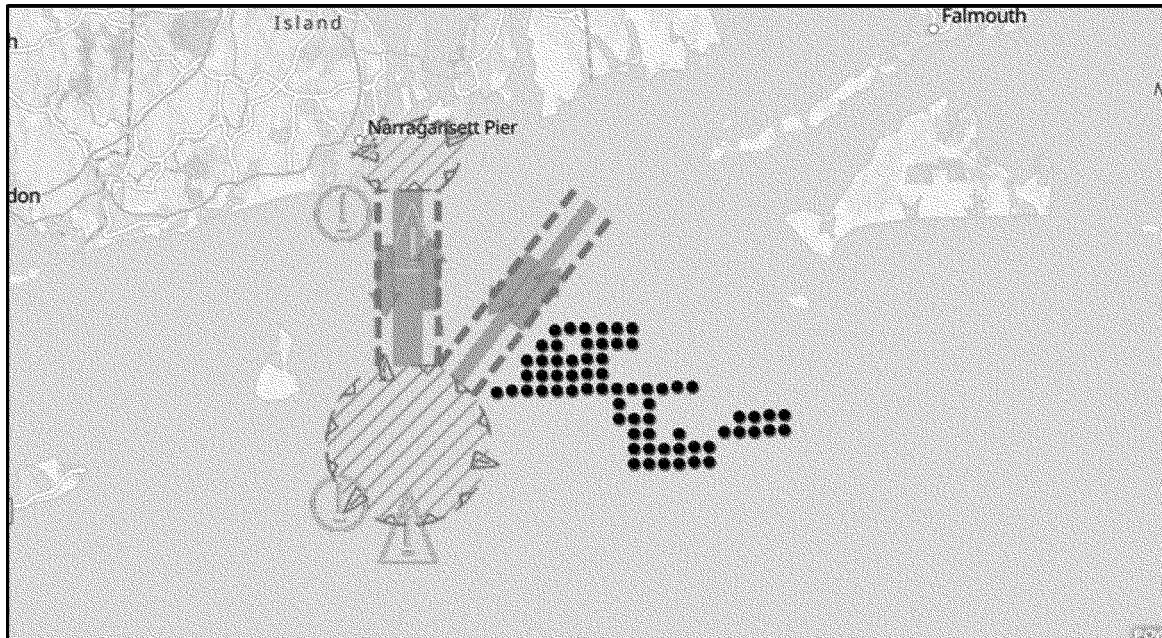
The positions of the 67 proposed safety zones are shown on the chartlets below. For scaling purposes, there is

approximately one NM spacing between each position.

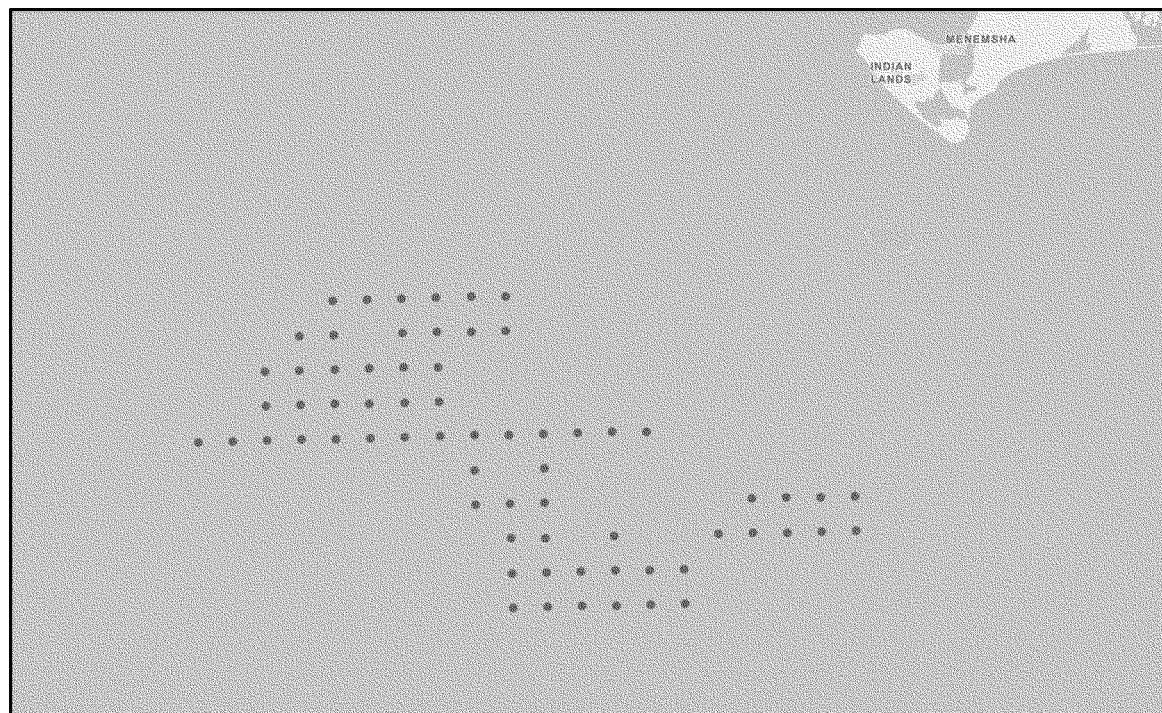
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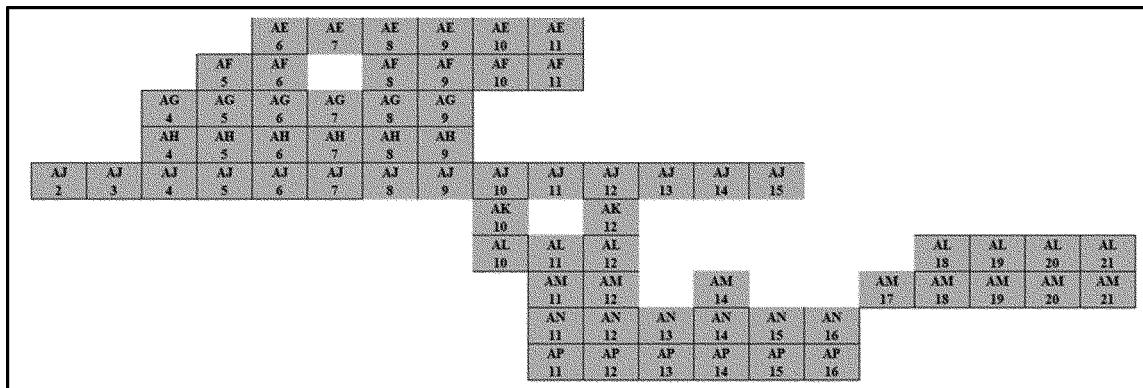
(Small scale chartlet showing the positions of the proposed safety zones.)



(Small scale chartlet showing the positions of the proposed safety zones in relation to the approaches to Narragansett Bay, RI, and Buzzards Bay, MA.)



(Large scale chartlet showing the positions of the proposed safety zones.)



(Chartlet showing locations using alpha-numeric naming convention.)

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Navigation in the vicinity of the proposed safety zones consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows, and recreational vessels.

When enforced, no unauthorized vessel or person would be permitted to enter the safety zone without obtaining permission from the First Coast Guard District Commander or a designated representative. Requests for entry into the safety zone would be considered and reviewed on a case-by-case basis. Persons or vessels seeking to enter the safety zone must request authorization from the First Coast Guard District Commander or designated representative via VHF-FM channel 16 or by phone at 617-603-1560 (First Coast Guard District Command Center). If permission is granted, all persons and vessels shall comply with the instructions of the First Coast Guard District Commander or designated representative.

The proposed regulatory text appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed 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 and 13563 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. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

Aligning with 33 CFR 147.15, the safety zones established would extend

to a maximum distance of 500-meters around the OCS facility measured from its center point. Vessel traffic would be able to safely transit around the proposed safety zones, which would impact a small, designated area in the Atlantic Ocean, without significant impediment to their voyage. This safety zone would provide for the safety of life, property, and the environment during the construction of each structure, in accordance with Coast Guard maritime safety missions.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This rulemaking may affect owners or operators of vessels intending to transit or anchor in the RWF, some of which might be small entities. However, these safety zones would not have a significant economic impact on a substantial number of these entities because they are temporarily enforced, allow for deviation requests, and do not impact vessel transit significantly. Regarding the enforcement period, although these safety zones would be in effect from June 1, 2024, through May 31, 2027, vessels would only be prohibited from the regulated zone during periods of actual construction activity in correspondence to the period of enforcement. We expect the enforcement period at each location to last approximately 48 hours as construction progresses from one

structure location to the next throughout the mixed phases. Additionally, vessel traffic could pass safely around each safety zone using an alternate route. Use of an alternate route likely will cause minimal delay for the vessel in reaching their destination depending on other traffic in the area and vessel speed. Vessels would also be able to request deviation from this rule to transit through a safety zone. Such requests would be considered on a case by-case basis and may be authorized by the First Coast Guard District Commander or a designated representative. For these reasons, the Coast Guard expects any impact of this rulemaking establishing a temporary safety zone around these OCS facilities to be minimal and have no significant economic impact on small entities.

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 (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rulemaking would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under

the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not 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. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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 \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the potential effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security 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. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of a safety zone around an OCS facility to protect life, property, and the marine environment. Normally such actions are categorically excluded from further review under paragraph L60 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view 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 <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG–2024–0134 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 <https://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 <https://www.regulations.gov> Frequently Asked Questions web page. 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 <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (waters).

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 147 as follows:

PART 147—SAFETY ZONES

■ 1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 544; 43 U.S.C. 1333; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. Add § 147.T01–0134 to read as follows:

§ 147.T01–0134 Safety Zone; Revolution Wind Farm Project Area, Outer Continental Shelf, Lease OCS–A 0486, Offshore Rhode Island, Atlantic Ocean.

(a) Description. The area within 500-meters of the center point of the positions provided in the table below is a safety zone:

Name	Facility Type	Latitude	Longitude
AE06	WTG	41°13.555' N	71°10.367' W
AE07	WTG	41°13.575' N	71°09.050' W
AE08	WTG	41°13.603' N	71°07.719' W
AE09	WTG	41°13.632' N	71°06.402' W
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Name	Facility Type	Latitude	Longitude
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AJ07	WTG	41°09.578' N	71°08.919' W
AJ08	WTG	41°09.604' N	71°07.612' W
AJ09	WTG	41°09.633' N	71°06.319' W
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AJ13	WTG	41°09.737' N	71°00.954' W
AJ14	WTG	41°09.748' N	70°59.654' W
AJ15	WTG	41°09.757' N	70°58.367' W
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AM21	WTG	41°06.904' N	70°50.325' W
AN11	WTG	41°05.666' N	71°03.499' W
AN12	WTG	41°05.703' N	71°02.118' W
AN13	WTG	41°05.675' N	71°00.836' W
AN14	WTG	41°05.801' N	70°59.538' W
AN15	WTG	41°05.760' N	70°58.223' W
AN16	WTG	41°05.792' N	70°56.911' W
AP11	WTG	41°04.671' N	71°03.482' W
AP12	WTG	41°04.697' N	71°02.144' W
AP13	WTG	41°04.731' N	71°00.873' W
AP14	WTG	41°04.746' N	70°59.423' W
AP15	WTG	41°04.766' N	70°58.180' W
AP16	WTG	41°04.788' N	70°56.858' W

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the First Coast

Guard District Commander in the enforcement of the safety zones.

(c) *Regulations.* No vessel may enter or remain in this safety zone except for the following:

- (1) An attending vessel as defined in 33 CFR 147.20;
- (2) A vessel authorized by the First Coast Guard District Commander or a designated representative.

(d) *Request for permission.* Persons or vessels seeking to enter the safety zone must request authorization from the First Coast Guard District Commander or a designated representative. If permission is granted, all persons and vessels must comply with lawful instructions of the First Coast Guard District Commander or designated

representative via VHF-FM channel 16 or by phone at 617-603-1560 (First Coast Guard District Command Center). **(e) Effective and enforcement periods.** This section will be effective from June 1, 2024, through 11:59 p.m. on May 31, 2027. But it will only be enforced during active construction or other instances which may cause a hazard to navigation deemed necessary by the First Coast Guard District Commander. The First Coast Guard District Commander will make notification of the exact dates and times in advance of each enforcement period for the locations above in paragraph (a) of this section to the local maritime community through the Local Notice to Mariners and will issue a Broadcast Notice to Mariners via marine channel 16 (VHF-FM) as soon as practicable in response to an emergency. If the project is completed before May 31, 2027, enforcement of the safety zones will be suspended, and notice given via Local Notice to Mariners. The First Coast Guard District Local Notice to Mariners can be found at: <http://www.navcen.uscg.gov>.

Dated: March 15, 2024.

J.W. Mauger,
Rear Admiral, U.S. Coast Guard, Commander,
First Coast Guard District.

[FR Doc. 2024-05992 Filed 3-20-24; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[EPA-R03-OAR-2024-0070; FRL-11788-01-R3]

Clean Air Act Title V Operating Permit Program Revision; West Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to West Virginia's Title V Operating Permits Program, submitted on behalf of the state by the West Virginia Department of Environmental Protection (WVDEP). There are three components to the revision: it restructures the Title V operating permit fees collected by WVDEP in order to ensure that the Title V operating program is adequately funded; it amends West Virginia's Title V regulations to comport with Federal permit review, public petition, and affirmative defense requirements; and removes obsolete transitional language.

This action is being taken under section 502 of the Clean Air Act (CAA).

DATES: Written comments must be received on or before April 22, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2024-0070 at www.regulations.gov, or via email to Opila.MaryCate@epa.gov. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, 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, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit www.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT:

Yongtian He, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, Four Penn Center, 1600 John F Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2339. Mr. He can also be reached via electronic mail at he.yongtian@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The West Virginia Title V Operating Permit Program is implemented through its "Requirements for Operating Permits" rule, codified at Title 45, Series 30 of the West Virginia Code of State Regulations (45CSR30). The EPA granted full approval of the West Virginia Title V Operating Permit Program effective November 19, 2001. See 66 FR 50325. On May 3, 2023, WVDEP submitted a revision to 45CSR30 (effective March 31, 2023) for approval into the state's EPA-approved Title V program. WVDEP revised 45CSR30 to: (1) restructure the Title V

program fee as recommended by the EPA in a September 2021 Title V Program Evaluation Report, an August 2019 Title V Permit Fee Evaluation Report, and a May 2015 Title V Program Evaluation Report;¹ (2) comport with the EPA's "Revisions to the Petition Provisions of the Title V Permitting Program" final Federal rule (85 FR 6431, February 5, 2020) and the EPA's "Removal of Title V Emergency Affirmative Defense Provisions from State Operating Permit Programs and Federal Operating Permit Program" (88 FR 47029, July 21, 2023); and (3) remove obsolete transitional language and provide additional clarifications.

Under 40 CFR 70.9(a) and (b), an approved state Title V operating permits program must require that the owners or operators of 40 CFR part 70 sources pay annual fees, or the equivalent over some other period, that are sufficient to cover the permit program costs and ensure that any fee required under 40 CFR 70.9 is used solely for permit program costs. The fee schedule must result in the collection and retention of revenues sufficient to cover the permit program implementation and oversight costs. 40 CFR 70.9(b).

A. Fee Structure Revision

West Virginia's initial Title V permit emission fee was established in 1994 at 45CSR30.8 and was based on emissions of individual sources subject to the West Virginia Title V Operating Permit Program. The initial fee was \$15 per ton of regulated pollutant emitted by subject sources. On July 1, 1995, this increased to \$18 per ton. See 81 FR 7463, February 12, 2016, footnote 1. Subject sources were not required to pay annual fees for emissions in excess of 4,000 tons per year, referred to as an emissions fee cap. On June 10, 2015, West Virginia again amended its fee provisions at 45CSR30.8 to increase the annual emission fee from \$18 to \$28 per ton and maintained the emissions fee cap for individual sources at 4,000 tons per year. The EPA approved this revision on February 12, 2016. See 81 FR 7463.

The state submission indicates that under the previous fee structure, approximately 60% of Title V fees generated in West Virginia were paid by the top ten emitting sources of West Virginia's approximately 500 Title V facilities. Nine of the top ten sources were coal-fired electric generating units (EGUs), some of which, according to the state, have indicated the possibility of retiring in the near future. Accordingly, the previous fee structure was not

¹ The reports are available at www.epa.gov/caa-permitting/title-v-evaluation-report-west-virginia.