August 30, 2021

Rear Admiral Thomas G. Allan, Jr.
Commander
U.S. Coast Guard First District
408 Atlantic Avenue
Boston, MA 02110

Re: Docket USCG-2020-0278, Notice of Availability of Draft Report
Submitted via http://www.regulations.gov

Dear Admiral Allan:

In response to the *Federal Register* notice[1] published on July 15, 2021, regarding the availability of the Draft Northern New York Bight Port Access Route Study (NNYB PARS), the American Clean Power Association[2] (ACP) and the New York Offshore Wind Alliance[3] (NYOWA) appreciate this opportunity to comment.

Navigation safety is a priority of the U.S. offshore wind industry. ACP, NYOWA and our members strongly believe that offshore wind in the U.S. can be constructed and operated in ways that are compatible with mariner safety and safe vessel navigation. The ability to balance these interests, without sacrificing either, has been demonstrated globally.

## Executive summary

ACP and NYOWA appreciate the detailed analysis in the draft NNYB PARS. As described in the comments that follow, ACP and NYOWA support the one recommendation and one of the proposed actions in the draft report. However, we have clarifying questions about a few other proposed actions, and we oppose a few as well as not seemingly justified by the vessel data analysis and as not representing a balance among reasonable uses of the waterway.

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[1] *Federal Register*. Vol. 86, No. 133. July 15, 2021. Available at: https://www.govinfo.gov/content/pkg/FR-2021-07-15/pdf/2021-14757.pdf

[2] 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.

[3] The New York Offshore Wind Alliance (NYOWA) is a diverse coalition of business, environmental, labor and community organizations with a shared interest in promoting the responsible development of offshore wind power for New York. NYOWA is a project of the Alliance for Clean Energy New York (ACE NY). For more information, see: www.nyowa.org

As the draft study notes, the "primary purpose" of the coordination leading to a PARS is "to the extent practicable, to reconcile the need for safe access routes with other reasonable waterway uses such as construction and operation of renewable energy facilities and other uses of the waters within the study area."[4] ACP and NYOWA do not believe that all of the proposed actions in the draft NNYB PARS represent a reasonable balance, but can with some clarifications and re-consideration of two of the proposed actions.

To follow is a summary of the main points and recommendations ACP and NYOWA address in more detail in the balance of these comments:

- Offshore wind permitting and procurement requirements and targets necessitate additional offshore wind leasing; Coast Guard planning should consider that need.
    - Over 22 gigawatts (GW) of state supported offshore wind development targets are represented in the Northeast and could potentially be served by projects sited in the New York Bight, more than the 12.5 GW cited in the draft study.
- There are already a significant number of navigation safety measures in place in the New York Bight and vessel navigation concerns were already considered in establishment of offshore wind lease areas in the NNYB PARS study area, therefore the hurdle should be high to impose new measures.
- ACP and NYOWA support the recommendation in the draft NNYB PARS:
    - "Mariners transiting in or near leased or planned Wind Energy Areas (WEAs) in the New York Bight should use extra caution, ensure proper watch, proceed at a safe speed to avoid collision and be able to stop within a distance appropriate to the prevailing circumstances and conditions and assess all risk factors. Offshore renewable energy installations present new challenges to safe navigation, but proper voyage planning and access to relevant safety information should ensure that safety is not compromised."
- ACP and NYOWA support the proposed action to establish the Hudson Canyon to Ambrose Southeastern Fairway, so long as there is not an additional setback required from the fairway that would impede on the proposed Hudson South and Central Bight lease areas.
    - Given the buffers built into fairway widths, ACP and NYOWA presume there will be no additional setbacks recommended or required and suggest the Coast Guard be explicit about this in the final NNYB PARS.
- ACP and NYOWA request clarification on the route for the proposed action to establish the Cape Charles to Montauk Point Fairway; ACP and NYOWA recommend a revised route the Coast Guard has proposed in other forums that avoids overlap with the Hudson North lease area.
    - Revising the proposed route (1) Is consistent with the Coast Guard's vessel traffic analysis (2) Is consistent with International Maritime Organization (IMO) recommendations that fairways provide for limited turns and mostly straight-line navigation (or at least as consistent as the route proposed in

[4] Draft NNYB PARS, page 9.

the ACPARS advanced notice of proposed rulemaking) and (3) Better represents a balance among reasonable uses of the water way by providing for navigation safety while allowing leasing in the Hudson North lease area.

- ACP and NYOWA request reconsideration of the proposed action to establish a Hudson Canyon to Ambrose Eastern Fairway.
    - It does not appear to be supported by the vessel density analysis, particularly given other proposed actions that facilitate navigation across and through the Bight.
- ACP and NYOWA oppose the proposed action to establish a single Nantucket to Ambrose Fairway
    - It is not supported by the vessel traffic analysis and no compelling evidence is provided as to why they current bifurcated fairways are inadequate to protect navigation safety.
- The Coast Guard should review inconsistencies between the Coast Guard and the Bureau of Ocean Energy Management's (BOEM) assessment of commercial and recreational fishing navigation needs in and around the Hudson South lease areas.
- ACP and NYOWA urge the Coast Guard to finalize the NNYB PARS as soon as possible so it can inform BOEM's final sale notice for the New York Bight.
- ACP and NYOWA recommend any additional navigation safety measures be considered in project-specific construction and operation plan (COP) reviews rather than unilaterally imposed or recommended by the Coast Guard.

## Discussion

### Offshore wind permitting and procurement requirements and targets necessitate additional offshore wind leasing; Coast Guard planning should consider that need

ACP and NYOWA appreciate the acknowledgement in the draft NNYB PARS regarding the combined demand for offshore wind from the Governors of New York and New Jersey, which was cited at 12.5 gigawatts by 2030.[5] However, as the BOEM Area Identification Memo[6] found, demand in the region that could conceivably be served by offshore wind facilities in the New York Bight is significantly larger. BOEM reported, "over 22 gigawatts (GW) of state supported offshore wind development targets are represented in the Northeast, including New York (9 GW), New Jersey (7.5 GW), Massachusetts (3.2 GW), Rhode Island (400 MW) and Connecticut (2 GW), representing a significant local demand and competitive development environment. BOEM estimates that this energy demand would not be satisfied by full utilization of the areas BOEM has already offered for lease in the region." The BOEM numbers are consistent with ACP's and NYOWA's tracking of state demand.

[5] Draft NNYB PARS report, page 23.
[6] New York Bight Area Identification Memorandum Pursuant to 30 CFR 585.211(b), BOEM, March 26, 2021, page 8. Available at: https://www.boem.gov/sites/default/files/documents/renewable-energy/Memorandum%20for%20Area%20ID%20in%20the%20NY%20Bight.pdf

ACP and NYOWA also note that on March 29, 2021, President Biden set a goal of deploying 30 gigawatts (30,000 megawatts) of offshore wind by 2030.[7] As the White House announcement noted, "Meeting this target will trigger more than $12 billion per year in capital investment in projects on both U.S. coasts, create tens of thousands of good-paying, union jobs, with more than 44,000 workers employed in offshore wind by 2030 and nearly 33,000 additional jobs in communities supported by offshore wind activity. It will also generate enough power to meet the demand of more than 10 million American homes for a year, and avoid 78 million metric tons of CO2 emissions."

Among the steps the Biden Administration announced it was taking to achieve the 30 GW goal is to "advance new lease sales and complete review of at least 16 Construction and Operations Plans (COPs) by 2025, representing more than 19 GW of new clean energy for our nation."

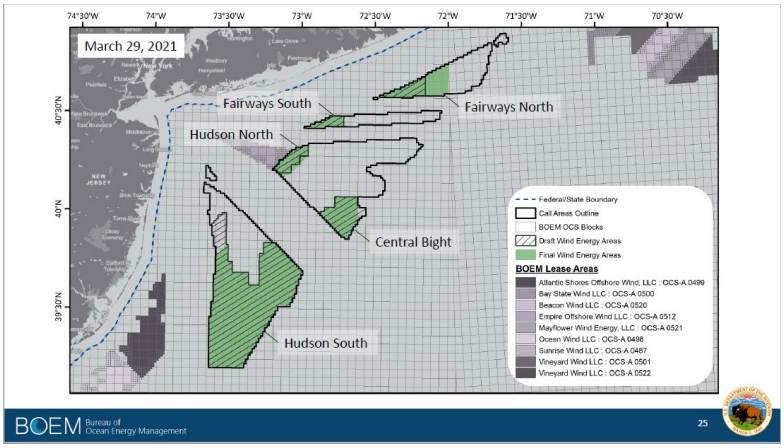
Therefore, when considering whether additional navigation safety measures are necessary, the Coast Guard and BOEM should work together to ensure adequate sea space remains in areas that would be economic to develop to facilitate needed additional offshore wind leasing while still providing for safe navigation.

**Vessel navigation concerns already considered in establishment of offshore wind lease areas in the NNYB PARS study area**

On March 29, 2021, BOEM published five final wind energy areas (WEAs): Fairways North, Fairways South, Hudson North, Hudson South, and the Central Bight.[8] BOEM significantly adjusted the final areas from those originally proposed as call areas, and even from the draft WEAs proposed in November 2018, after more than three years of consideration and stakeholder input. Several of the changes made were to address vessel navigation concerns.[9] Figure 1 below from BOEM's slide deck[10] presented during the Intergovernmental Renewable Energy Task Force Meeting for the New York Bight on April 14, 2021, shows how the areas were reduced in size from the original call areas to the draft WEAs to the final WEAs. The original call areas are outlined in black. The draft WEAs contain the diagonal lines. And the final WEAs are shaded green:

[7] https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/29/fact-sheet-biden-administration-jumpstarts-offshore-wind-energy-projects-to-create-jobs/
[8] Summary of the WEAs is available on the BOEM website here: https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/NYBight-Wind-Energy-Areas-Summary.pdf. GIS shape files of the WEAs are available here: https://www.boem.gov/renewable-energy/state-activities/wind-energy-area-shape-files
[9] Available at: https://www.boem.gov/sites/default/files/documents/renewable-energy/Memorandum%20for%20Area%20ID%20in%20the%20NY%20Bight.pdf
[10] Available at: https://www.boem.gov/renewable-energy/state-activities/luke-feinberg-outer-continental-shelf-wind-energy-leasing

**Figure 1. BOEM slide showing evolution of wind energy areas to leasing areas**




In addition, BOEM has announced they do not plan to hold auctions for Fairways North and Fairways South at this time to allow for additional consideration of potential conflicts, including those related to navigation.[11]

In considering whether additional routing measures are needed via the NNYB PARS, the Coast Guard should consider how BOEM has taken prior Coast Guard input into account when designating WEAs and lease areas.

**Existing safety measures raise questions about the need for the full suite of proposed actions in the draft NNYB PARS**

The Coast Guard rightfully acknowledges the many navigation safety measures that are already in place in the New York Bight. For example, existing regulations supporting navigation safety and impacting the New York Bight are summarized beginning on page 15, and existing routing measures are detailed on page 17 of the draft NNYB PARS.

Further, existing aids-to-navigation (both federal and private) in the study area are noted on page 42. In discussing aids-to-navigation, the draft study correctly observes, "Potential structures in a proposed wind farm, in addition to being obstructions, may serve as aids to navigation. Developers constructing and operating wind farms will mark and light each structure in accordance with Federal regulations and international standards. BOEM may, as a condition of a construction and operations permit, require the wind energy companies to submit a comprehensive aids-to-navigation plan for First Coast Guard District review."

[11] *Federal Register,* Vol. 86, No.112, page 31526, Proposed Sale Notice for the New York Bight, June 14, 2021. Available at: https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/86-FR-31524.pdf

Relatedly, during the July 22, 2021, BOEM Offshore Wind and Maritime Industry Knowledge Exchange meeting[12] offshore wind industry representatives noted effective co-existence for offshore wind with other ocean users requires the ability to maintain effective search and rescue (SAR) capabilities, noted how offshore wind facilities can contribute to effective SAR through utilization of maintenance vessels to assist, use of AIS on turbines to help in location identification, potentially helping to enhance VHR communications, among other potential measures that can be discussed with BOEM and the Coast Guard and tailored to specific project and geographic needs.

In ACP's and NYOWA's view, the various existing safety measures, and the ways in which offshore wind facilities can enhance some of those safety measures, including SAR, should establish a high bar for imposition of additional measures, particularly those that do not necessarily accommodate other reasonable waterway uses. Before detailing ACP's and NYOWA's questions and concerns about some of the proposed actions, we wanted to highlight one recommendation and one proposed action that we support and believe are justified by the analysis in the draft study.

**ACP and NYOWA support the following recommendation and proposed action in the draft NNYB PARS**

1. ACP and NYOWA support the recommendation in the draft NNYB PARS: "Mariners transiting in or near leased or planned Wind Energy Areas (WEAs) in the New York Bight should use extra caution, ensure proper watch, proceed at a safe speed to avoid collision and be able to stop within a distance appropriate to the prevailing circumstances and conditions and assess all risk factors. Offshore renewable energy installations present new challenges to safe navigation, but proper voyage planning and access to relevant safety information should ensure that safety is not compromised."[13]

ACP and NYOWA support this recommendation as it is consistent with the IMO Convention on the International Regulations for Preventing Collisions at Sea (COLREG).[14] Adherence to COLREGs (specifically, Rule 8) means vessel operators have an obligation to use all available means given prevailing conditions to determine if a collision risk exists and, if there is any doubt, take precautionary measures to avoid that risk, including maintaining a safe speed. A safe speed is determined considering visibility, traffic density, the state of the sea/currents, proximity of navigational hazards, and maneuverability and stopping distance for the vessel.

2. ACP and NYOWA also support the proposed action to establish the Hudson Canyon to Ambrose Southeastern Fairway. As proposed by the Coast Guard, this fairway would be located from the entrance/exit of the Traffic Separation Scheme Off New

[12] Recording of the webinar and presentations are available at: https://www.boem.gov/renewable-energy/stakeholder-engagement/boem-offshore-wind-and-maritime-industry-knowledge-exchange
[13] Draft NNYB PARS, page 5.
[14] Summary available at: http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/COLREG.aspx

York: Southeastern approach to a point 5 nautical miles (nm) beyond the BOEM designated Central Bight and Hudson South lease areas.

ACP and NYOWA agree this proposed fairway is justified by the vessel traffic analysis in the NNYB PARS. ACP and NYOWA believe this proposed fairway represents a reasonable balance by helping funnel traffic safely around/between the Central Bight and Hudson South lease areas. However, ACP's and NYOWA's support is conditioned on there being no two nm or other recommended setback from the fairway that encroaches on the proposed lease areas.

Coast Guard staff has indicated on New York Maritime Technical Working Group calls that setbacks are not established from fairways as the established fairway widths already account for navigation needs with an additional buffer for safety, which is consistent with the explanation in the final Atlantic Coast Port Access Route Study,[15] but nothing in the draft NNYB PARS confirms this.

It appears this proposed fairway is at least 12 nm wide and could be as wide as 15 nm based on the linear measurement tool in the Mid-Atlantic Ocean Data Portal. That is significantly wider than the 9 nm to 10 nm identified in the final Atlantic Coast Port Access Route Study for the safety corridor width for towing vessel and deepwater draft fairways. The safety corridor width includes buffers on either side of the route for safety.[16] The width of the proposed Hudson Canyon to Ambrose Southeastern Fairway is further evidence that additional safety buffers are not needed.

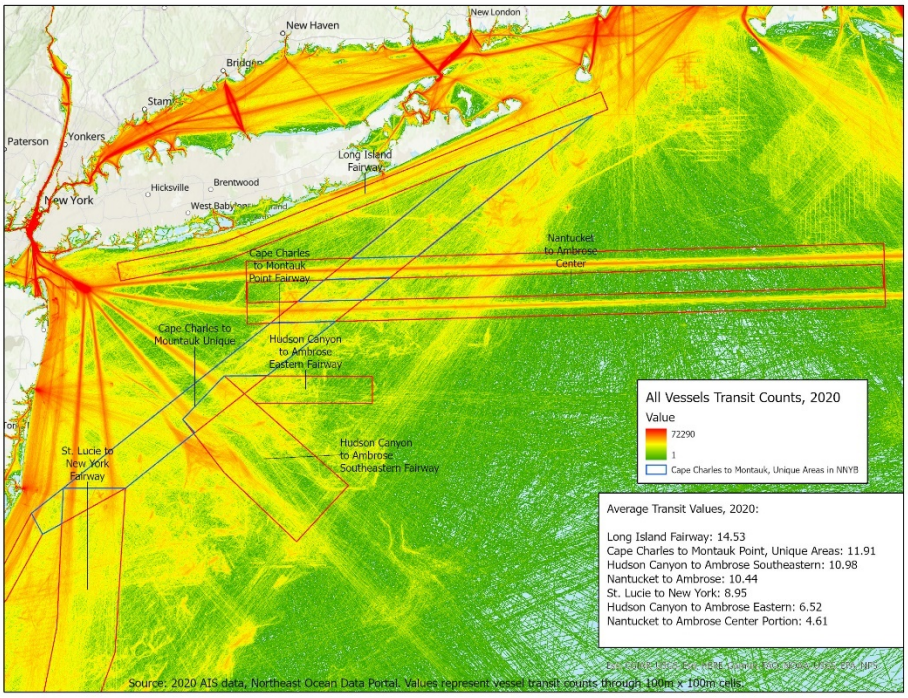
ACP and NYOWA urge the Coast Guard to clarify that additional buffers are not required in the final version of the NNYB PARS.

As shown in Figure 2 below, ACP conducted vessel count analysis using 2020 automatic identification system (AIS) data from the Northeast Ocean Data Portal. ACP calculated the average value of annual vessel transits across all 100 meter x 100 meter cells within each proposed fairway. This analysis shows the highest vessel count on average is in the Long Island Fairway at 14.53 vessels. The Hudson to Ambrose Southeastern Fairway comes in third at 10.98 vessels. ACP and NYOWA believe the higher average in the proposed Hudson to Ambrose Southeastern Fairway supports the establishment of the fairway.

[15] See, for example, Atlantic Coast Port Access Route Study, Final Report, July 8, 2015. "These efforts enabled the WG [ACPARS Working Group] to identify navigation safety corridors along the Atlantic Coast that combine the width necessary for navigation and additional buffer areas based on the planning guidelines." Page i. Available at: https://www.navcen.uscg.gov/pdf/PARS/ACPARS_Final_Report_08Jul2015_Executive_Summary.pdf

[16] Ibid. Appendix VII, pages 1-2. Available at: https://www.navcen.uscg.gov/pdf/PARS/ACPARS_Final_Report_08Jul2015_Appendix_VII.pdf

**Figure 2. ACP Vessel Count Analysis by Fairway, 2020 data**




**ACP and NYOWA have questions/concerns about the following recommendations:**

1. **ACP and NYOWA request clarification on the route for the proposed action to establish the Cape Charles to Montauk Point Fairway; ACP and NYOWA recommend a revised route the Coast Guard has proposed in other forums that avoids overlap with the Hudson North lease area**

ACP and NYOWA are not convinced the vessel traffic analysis supports the establishment of the Cape Charles to Montauk Point Fairway. As the draft study notes, "Tug/tow vessels, consistent with the passage line analysis, are concentrated near the shore (Charts I.1-I.3)."[17] The "All Vessels" map (Figure 3 below using 2019 data) shows low traffic density in the proposed Cape Charles to Montauk Point Fairway route. The same low traffic density designation is true of the Tug and Tow map (Figure 4 below also using 2019 data).

[17] Draft NNYB PARS, page 25 of the Vessel Traffic Analysis Appendix or Page 116 of the combined PDF.

**Figure 3. Coast Guard All Vessels Traffic Analysis, 2019**

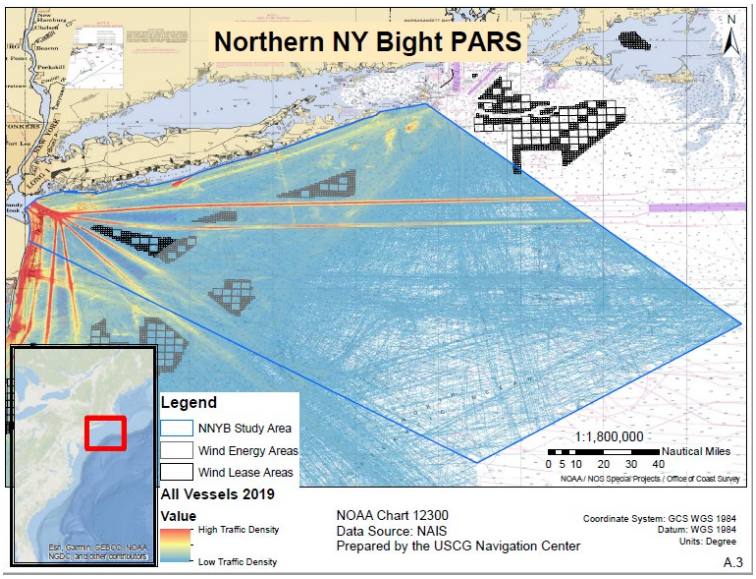
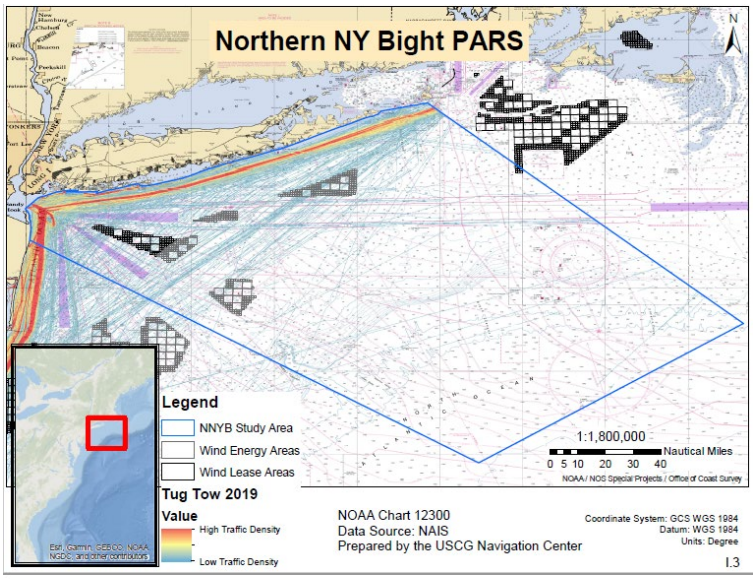



**Figure 4. Coast Guard Tug and Tow Vessel Traffic Analysis, 2019**




While ACP's Vessel Traffic Count Analysis in Figure 2 earlier in these comments shows a relatively higher level of traffic in the Cape Charles to Montauk Point proposed fairway as compared several of the other fairways, it is likely because it is picking up traffic coming in and out of the port that will utilize the St. Lucie to New York Fairway and/or the Hudson to Ambrose Southeastern Fairway (the red/yellow concentrations that slant to the

south/southeast) rather than traffic that will be traveling across the New York Bight and, therefore, would be served by the Cape Charles to Montauk Point Fairway.

ACP and NYOWA are also concerned about the lack of clarity on the proposed route of the fairway. On the one hand, the draft study proposes to establish the Cape Charles to Montauk Point Fairway "proposed in the Atlantic Coast Port Access Route Study Advanced Notice of Proposed Rulemaking (ANPRM) [Docket No. USCG-2011-0351 (85 FR 37034) June 29, 2020."[18] The route proposed in the ACPARS ANPRM would overlap the proposed Hudson North lease area. On the other hand, in the next sentence, the Coast Guard indicates "the exact coordinates of the fairway are best dispositioned by Coast Guard Headquarters as the fairway extends beyond multiple PARS study areas."

To the extent the Coast Guard maintains this proposed action in the final NNYB PARS, ACP and NYOWA request clarification on the recommended route and strongly urges the Coast Guard to recommend a route slightly to the southeast that does not overlap with the Hudson North lease area. The Coast Guard should also consider whether the proposed 8 nm width for this fairway is justified by the limited vessel density or whether the route could be narrowed as another way to avoid overlap with the proposed lease area. As with the other fairways, ACP and NYOWA request the Coast Guard clarify there will be no recommendation to establish a 2 nm or additional recommended setback from the Cape Charles to Montauk Point Fairway given the safety buffer that is already included in the proposed fairway width.

The route adjustment shown below (Figure 5) is from Coast Guard slides presented during the BOEM Intergovernmental Renewable Energy Task Force meeting for the New York Bight held in April 2021.[19] Figure 6 below shows a similar adjustment proposed in a Coast Guard map included in the New Jersey Port Access Route Study docket.[20]

**Figure 5. Coast Guard map of alternative route for Cape Charles to Montauk Point Fairway (presented during public meeting of the Intergovernmental Task Force)**

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[18] Draft NNYB PARS, page 5.
[19] https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/George-Detweiler-USCG.pdf (map from p. 16 of the PDF; 3 other illustrative maps included)
[20] https://homeport.uscg.mil/Lists/Content/Attachments/65940/NJPARSRoutingCharts2.pdf

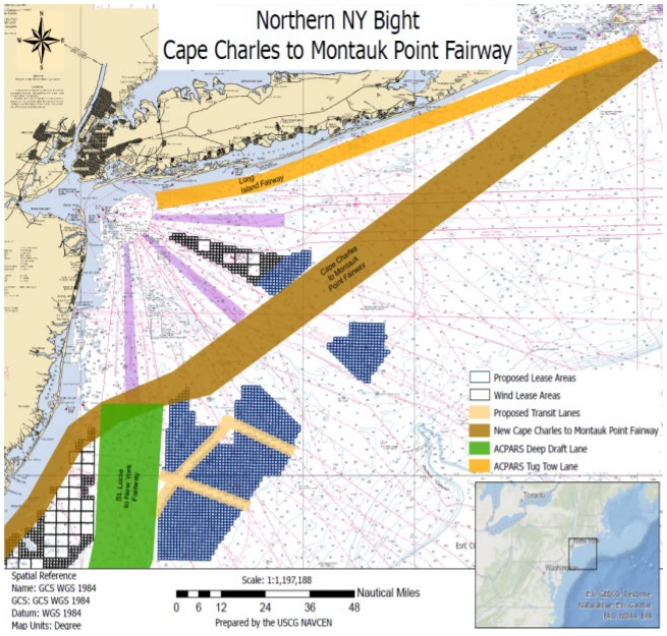
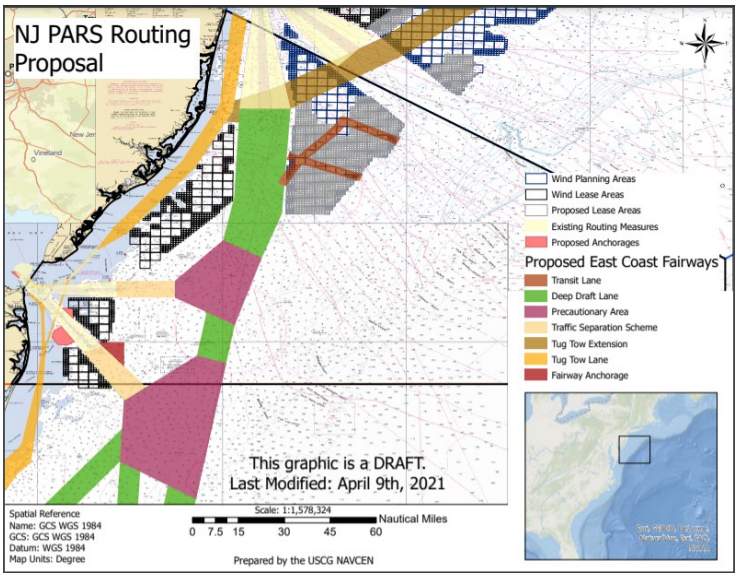



**Figure 6. Coast Guard map of alternative route for Cape Charles to Montauk Point Fairway (published in the New Jersey PARS docket)**




The alternative route depicted in the Coast Guard maps above:

- Is consistent with the Coast Guard's vessel traffic analysis shown earlier in these comments (Figures 1 and 2);

- Is consistent with IMO recommendations that fairways provide for limited turns and mostly straight-line navigation (or at least as consistent as the route proposed in the ACPARS ANPRM); and,
- Better represents a balance among reasonable uses of the water way by providing for navigation safety while still allowing leasing in the Hudson North lease area.

**2. ACP and NYOWA request reconsideration of the proposed action to establish a Hudson Canyon to Ambrose Eastern Fairway**

In ACP's and NYOWA's view, the vessel traffic analysis does not support the need for this proposed fairway. With the Hudson Canyon to Ambrose Southeastern Fairway (which ACP and NYOWA support as noted above) along with the proposed cross-Bight Cape Charles to Montauk Point Fairway, the vessel density does not seem to support the establishment of a third fairway. As shown in ACP's vessel count analysis in Figure 2 earlier in these comments, the proposed Hudson Canyon to Ambrose Eastern Fairway has an average of 6.52 vessels, far lower than the Hudson Canyon to Ambrose Southeastern Fairway (10.98 vessels) and Cape Charles to Montauk Point Fairway (11.91 vessels). ACP and NYOWA suggest the Coast Guard reconsider the Eastern Fairway in light of the low vessel density in the proposed fairway and the other routes across the Bight and in and out of the Port of New York.

Further, ACP and NYOWA are concerned the establishment of this additional fairway could lead to limits on the buildout in the Central Bight that would not represent a reasonable balance of oceans uses. To the extent the Coast Guard keeps this proposed action in the final NNYB PARS, the Coast Guard should more explicitly call out the vessel traffic analysis that supports its establishment. In addition, ACP and NYOWA request the Coast Guard clarify there will be no recommendation to establish a 2 nm or other recommended setback from the fairway that encroaches on the proposed Central Bight lease area given the safety buffer that is already included in the proposed fairway width.

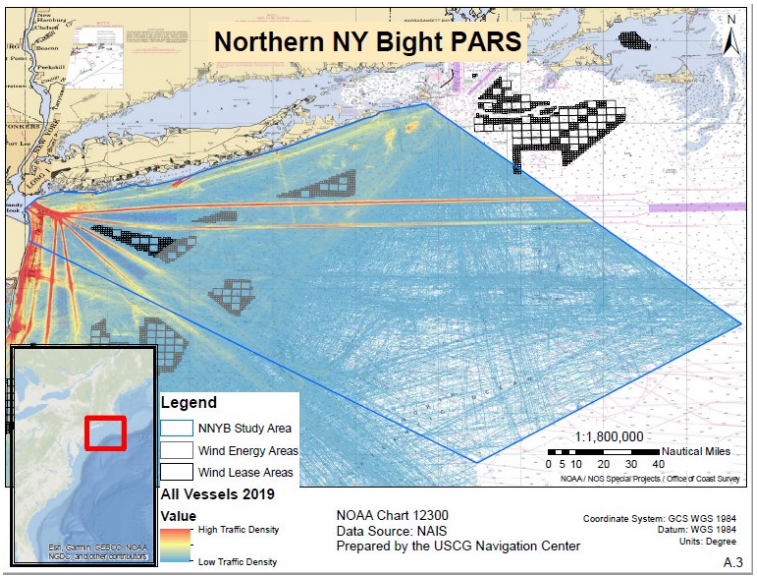
**3. ACP and NYOWA oppose the proposed action to establish a single Nantucket to Ambrose Fairway**

The Coast Guard's vessel traffic analysis (Figure 7 below, which is the same "All Vessels" maps shown in Figure 3 above) does not support the establishment of a single Nantucket to Ambrose Fairway. The vessel traffic is clearly concentrated in the existing Nantucket to Ambrose and Ambrose to Nantucket Fairways. In ACP's vessel count calculation shown in Figure 2 above, while the existing Nantucket to Ambrose and Ambrose to Nantucket Fairways have an average vessel count of 10.44 vessels, the count in the space between the two fairways that the Coast Guard proposes to merge into a single fairway has a low vessel count of only 4.61 vessels, the lowest of all the areas ACP analyzed.

The Coast Guard does not present any compelling evidence as to why the current bifurcated fairways are inadequate to protect navigation safety. Further, the establishment of a single fairway as proposed in the draft NNYB PARS would preclude offshore wind leasing in the

Fairways South lease area, which does not represent a reasonable balance among waterway users when there is not a compelling safety reason to do so.

**Figure 7. Coast Guard All Vessels Traffic Analysis, 2019**




**The Coast Guard should review inconsistencies between the Coast Guard and BOEM's assessment of commercial and recreational fishing navigation needs in and around the Hudson South lease areas.**

The draft NNYB PARS does not recommend any specific measures related to commercial or recreational fishing navigation through the lease areas proposed by BOEM. However, BOEM itself has proposed "transit corridors," between some lease areas in Hudson South of 2.44 nm in width.[21]

ACP and NYOWA are unclear on the rationale for the "transit corridors" given that the Coast Guard, the agency statutorily responsible for ensuring safe navigation, has not recommended them in this draft NNYB PARS. Further, ACP and NYOWA members have done various calculations based on vessel size etc. and cannot come up with a figure anywhere near 2.44 nm for the width of a potential corridor. Given the Coast Guard has found 1 nm turbine spacing (combined with uniform grid layouts in adjacent lease areas) sufficient for safe transit through lease areas in the final Massachusetts and Rhode Island Port Access Route Study (MARIPARS), ACP and NYOWA do not understand how BOEM came up with a proposal almost two and a half times that width based on a similar vessel size and use.

[21] Map of proposed corridors available at: https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/NY_Bight_Overview_Map.pdf

ACP and NYOWA urge the Coast Guard to assess BOEM's proposal for transit corridors considering the proposed actions in the NNYB PARS and publish for public comment a draft assessment on whether such corridors are necessary to provide for safe navigation. The baseline for this assessment has changed since the Coast Guard has now proposed significant added navigation pathways through the draft NNYB PARS. Additionally, the Department of Defense has proposed an exclusion area that would prohibit surface infrastructure in this same region, again adding to protected transit space. The Coast Guard should also assess the proposed width of 2.44 nm as compared to 1-2 nm corridors and consider whether turbine spacing, layout and/or orientation would eliminate any possible need for such corridors. This should be done soon to not delay publication by BOEM of the final sale notice.

**ACP and NYOWA urge the Coast Guard to finalize the NNYB PARS as soon as possible so it can inform BOEM's final sale notice for the New York Bight**

BOEM is currently reviewing comments (which were due on August 13, 2021) on the proposed sale notice for the multiple lease areas in the New York Bight. During the April 2021 Intergovernmental Task Force meeting, BOEM indicated a schedule of publishing the final sale notice in the Fall of 2021, with a planned lease auction in late 2021 or early 2022.[22] Given the potential impact of Coast Guard decisions on the availability and viability of certain lease areas, ACP and NYOWA strongly urges the Coast Guard to finalize its recommendations in coordination with BOEM as soon as possible to provide as much certainty and transparency to developers and other stakeholders in the FSN and prior to any lease auction.

**ACP and NYOWA recommend any additional navigation safety measures be considered in project-specific COP reviews rather than unilaterally imposed or recommended**

The draft study notes, "There 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 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."[23]

ACP and NYOWA agree with the above passage in the draft NNYB PARS, which is why we are confused by the section of the draft study beginning on page 57 identifying areas in which BOEM's proposed lease areas "deviate" from the MPG. As noted by the Coast Guard in the passage above, the MPGs provide "general guidelines" and each proposed project requires a case-by-case analysis. This suggests that identifying a "deviation" now is

[22] See slide 31 at: https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/Luke-Feinberg-Outer-Continental-Shelf-Wind-Energy-Leasing.pdf
[23] Draft NNYB PARS, page 56.

meaningless since no assessment has been made on whether it impacts navigation safety. ACP and NYOWA encourage this section to be removed from the final NNYB PARS.[24]

Relatedly, ACP and NYOWA strongly believe that the appropriate place to resolve any remaining concerns regarding vessel navigation with existing lease areas is through individual project navigation safety risk assessments (NSRAs), which are a part of the construction and operation plan (COP) reviews for each project and can result in conditions on approval by BOEM. That approach is generally consistent with the experience in Europe.

In Europe, navigation regulations and guidance applied to offshore wind farms adopt internationally recognized laws such as the Safety of Life at Sea[25] (SOLAS), IMO Conventions and the IMO Convention on the International Regulations for Preventing Collisions at Sea (COLREG). This approach has kept maritime users safe, while allowing flexibility in the development of offshore wind farms based on project-level NSRAs and mitigations.

Guidance is provided on appropriate safety distances between projects and distances from designated shipping lanes or routes that reflect dominant transit patterns. The designation of specific transit lanes through a wind farm is not a requirement of any of these laws and regulations and buffers to traffic lanes can vary based on project specific analysis. European practice has adopted effective mitigation methods to minimize the potential impacts on navigation safety. The same approach can work here.

In Europe, a site-specific NSRA is undertaken to fully evaluate the potential navigational risks posed by a specific offshore wind farm. Based on the findings of the NSRA, risks, if any, to navigation from a specific proposed wind farm can be evaluated and addressed, and potential mitigation measures implemented.

In the U.S., a NSRA is also required during the project-specific COP development and review process managed by BOEM and in which the Coast Guard is a cooperating agency. [26] These site-specific risk assessments allow developers to work with local stakeholders to ensure mitigation measures are 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 Coast Guard, vessel operators in the area and developers. And it requires consideration of cumulative impacts, not just those from the individual offshore wind farm developing the NSRA.

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[24] Notably, the Coast Guard itself has proposed to "deviate" from the spirit of the MPG with the proposed Ambrose Anchorage Area, which is located within the Long Island Fairway and adjacent to a TSS transit lane. That does not mean it is wrong or bad. It is presumably just an example of the safety case being strong enough to deviate from the spirit of the MPG as a part of planning.

[25] Summary available at: http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-for-the-Safety-of-Life-at-Sea-(SOLAS),-1974.aspx.

[26] See "Information Guidelines for a Renewable Energy Construction and Operations Plan," BOEM, Version 4.0, May 27, 2020. Available at: https://www.boem.gov/sites/default/files/documents/about-boem/COP%20Guidelines.pdf

Among the types of measures that can facilitate safe navigation and may be considered during project specific NSRAs and individual developer and stakeholder discussions with Coast Guard and tailored to specific projects and areas are:

- Turbine spacing
- Turbine layout (pattern, orientation)
- Buffers from navigation lanes
- Communications plans – frequent notices to mariners, utilization of fisheries liaisons and local fisheries representatives based in regional ports to facilitate communication etc.
- Utilization by developers of marine coordination and operations centers to manage project vessel traffic and to provide situational awareness for non-project vessels
- Presence of offshore wind project vessels, including service operation vessels and crew transfer vessel's ability to inform nearby mariners of current project activities in or near the wind farm
- Transit speeds for vessels associated with the wind farm
- Deployment of automatic identification technologies (AIS) technologies
- Marine navigation lighting and marking
- Establishment of safety zones during construction
- Adherence to COLREGs and general safe navigation operational practices
- Cable burial depth and shielding
- Proper marking of turbines and cable routes on NOAA nautical charts
- Remote monitoring and control of project operations

Offshore wind farm development is extremely complex. As lease areas are studied by lease holders during implementation of their site assessment plan, they are collecting data and analyzing various factors – wind speeds, other atmospheric and ocean data, wildlife (avian, marine mammals etc.) issues, vessel navigation (via NSRAs), Department of Defense activities, seabed characterization, commercial fisheries, etc. – that inform and may change multiple times how they are thinking about the lease area and the proposed project.

During the project design phase, lease holders periodically refine the turbine layout, total number of turbines etc. based on information acquired through studying the area and engaging with regulators and stakeholders. Given the rapidly advancing wind turbine technology and the years it takes to develop offshore wind farms, even the planned turbine size and model around which an offshore wind farm is being developed may change as the project moves forward. This may have implications for the number of turbines, wind turbine layout, and spacing. Optimizing wind turbine layout and spacing is critical to maximizing energy production, which is central to keeping the cost of energy affordable and helps to provide a reasonable return to taxpayers.

While expressing a preference for BOEM adoption of marine planning guidelines during the planning phase,[27] the Coast Guard has also noted the importance of project-specific reviews, including through NSRAs. For example, the draft NNYB PARS says, "The Coast Guard will continue to serve as a National Environmental Policy Act (NEPA) cooperating agency to BOEM's environmental review of each proposed project. In that role, the Coast Guard will evaluate the navigational safety risks of each proposal on a case-by-case basis."[28]

Navigation and Inspection Circular 01-19 made a similar point when saying, "The Coast Guard plays and important role in assisting the LA [lead agency], whose licensing and permitting activities may affect Coast Guard missions. The Coast Guard will evaluate applications and make recommendations to the LA concerning the potential impacts of the OREI [offshore renewable energy installation]." The circular goes on to explain, "…the Coast Guard's role remains that of assisting the LA as described in paragraph 2.b by providing recommendations necessary to reduce the potential impacts of an OREI on the MTS, navigation safety, and Coast Guard missions."[29]

ACP and NYOWA encourage the Coast Guard to support the flexibility needed by BOEM and project developers with respect to existing leases and with respect to future leasing.

For example, ACP and NYOWA oppose the establishment of 2 nm buffers between offshore wind lease areas and/or turbines and traffic separation schemes or fairways boundaries (though, as noted above, fairway widths already include buffers, so the Coast Guard should clarify no additional buffers will ever be requested from fairways).

As Renewables Consulting Group noted in its shipping and navigation study[30] for the New York State Energy and Research Development Agency (NYSERDA), "It is difficult to apply a standardized minimum distance between wind farms and navigation routes, as risks will vary depending on the location, proximity of turbines to a route boundary, prevailing metocean conditions, and existing and future vessel traffic profiles."[31] Distances from 0.5 nm to 3.5 nm can be found to be safe under historic review and consent of UK offshore wind projects and guidance from the UK Maritime and Coast Guard Agency with an emphasis on risks being reduced to a level "as low as reasonably practical" or ALARP.

According to the NYSERDA report, "the most common distance between a wind farm and shipping lane is approximately 1 nm." Figure 30 from the NYSERDA report is reproduced below:

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[27] Atlantic Coast Port Access Route Study Final Report, Coast Guard, Page 13. Available at: https://www.navcen.uscg.gov/pdf/PARS/ACPARS_Final_Report_08Jul2015_Combined_Appendix_Enclosures_Final_After_LMI_Review.pdf

[28] Draft NNYB PARS, page 6.

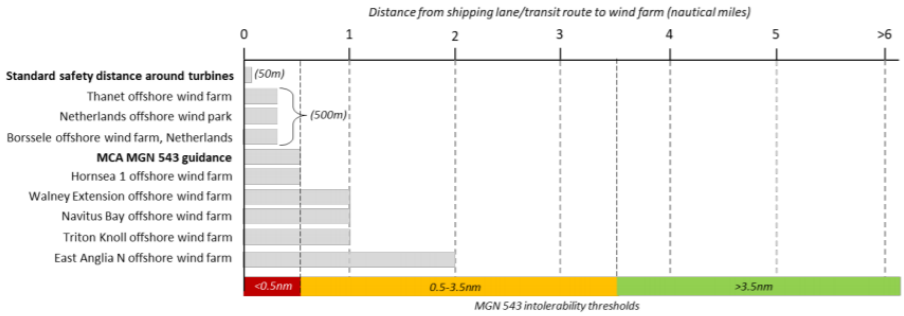
[29] Navigation and Inspection Circular 01-19, August 1, 2019, available at: https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/5ps/NVIC/2019/NVIC%2001-19-COMDTPUB-P16700-4-dtd-01-Aug-2019-Signed.pdf?ver=2019-08-08-160540-483

[30] Available at: https://www.nyserda.ny.gov/-/media/Files/Publications/Research/Biomass-Solar-Wind/Master-Plan/17-25q-Shipping-and-Navigation.pdf (NYSERDA report)

[31] NYSERDA report, page 53.

**Figure 30. Minimum Distances Between Example European Offshore Wind Farms and Shipping Routes Compared with Intolerability Thresholds**

*Source: MCA, 2016*




RCG concludes in the NYSERDA report, "This study suggests that 1 nm is an appropriate setback for initial planning purposes and informing the preliminary identification of area [sic] for potential locating of WEAs, and actual setbacks between shipping and navigation lanes and WEAs (and sites) should be determined at a later stage in the siting process following completion of a full NSRA."[32]

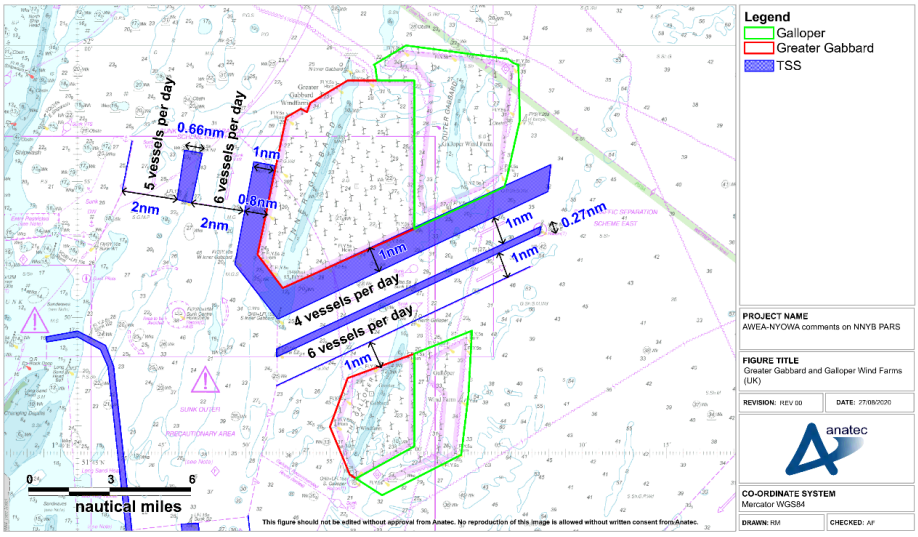
There are numerous examples of operational offshore wind farms located in proximity to busy routing measures within European waters. Figure 6 below presents a pertinent example, the operational Greater Gabbard and Galloper wind farms, which are located within the outer Thames Estuary in the UK. Both projects are sited 0.8 - 1nm from the neighboring Sunk Routing Measure, which comprises three TSS converging upon a central precautionary area.

The Sunk Routing Measure (which includes the TSS and a precautionary area as below) was implemented as part of overarching traffic management plans in the area, and the design included consideration for proposed wind farm developments. It should also be noted that a VTS (information only) was established as part of these traffic management measures.

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[32] Ibid. page 57.

**Figure 6. Greater Gabbard and Galloper Wind Farms in relation to TSSs**

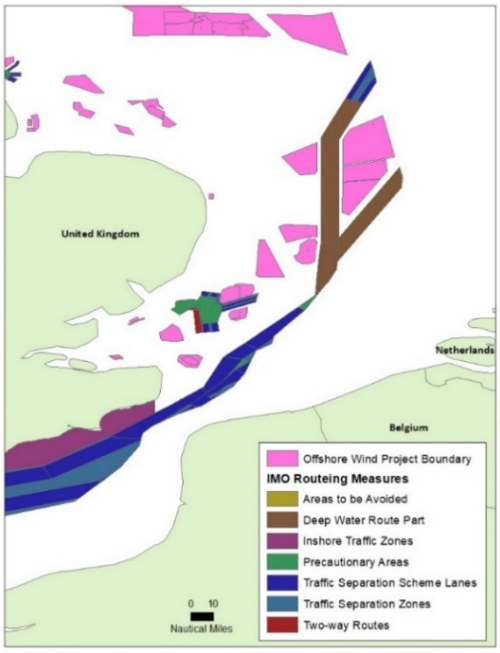



Greater Gabbard was fully commissioned in 2012, with Galloper following in 2018. To date there have been no reported incidents associated with the use of the bordering TSS lanes for vessel transit. This is considered a busy area in terms of traffic, and it is in proximity to the Thames Estuary, which houses key ports including the Port of London and the Medway Ports of Sheerness, Chatham and Thamesport. This indicates that with effective traffic management in place, vessels can adapt to the presence of offshore wind farms without issue, even when entering and exiting busy ports.

In prior comments to the Coast Guard, the American Wind Energy Association (AWEA), which merged into ACP on January 1, 2021, separately calculated the proximity of several United Kingdom offshore wind farms to deep water routes.[33] Based on those calculations, as shown in Figure 7 below, seven offshore wind lease areas in the UK have boundaries that are one nautical mile from a deep water route (Norfolk Boreas, East Anglia One North, Norfolk Vanguard East, Norfolk Vanguard West, East Anglia Three, East Anglia One). Five of those wind farms are approved, two are still pending. Further, the Humber Gateway offshore wind farm is just over 0.5 nautical miles from a traffic separation scheme. These wind farms have not created navigation hazards. Further, it is ACP's understanding that the largest active container vessel in the world, the HMM Algeciras, a 400 m container ship, has utilized the routing measures adjacent to the operational Greater Gabbard and Galloper wind farms. This speaks to the compatibility of even the very largest vessels navigating safely in the vicinity of offshore wind farms.

[33] The data used to create this map and calculations came from the following public sources: Admiralty Maritime Data Solutions: https://datahub.admiralty.co.uk/portal/apps/sites/#/marine-data-portal, and The Crown Estate GIS data portal: https://opendata-thecrownestate.opendata.arcgis.com/datasets/thecrownestate::offshore-wind-site-agreements-england-wales-ni-the-crown-estate-1

**Figure 7. Proximity of sampling of UK OSW farms to deep water routes**




To further illustrate this point by citing a recent example, the UK government consented to the Norfolk Vanguard Offshore Wind Farm. As noted in the analysis of the project, "the DR1 Lightbuoy Deep Water Route (DWR) runs between Norfolk Vanguard East and West approximately 1nm from both of these sites, and the West Friesland DWR passes approximately 2nm to the east of Norfolk Vanguard East."[34] It is ACP's understanding that once a project area receives consent in the UK, the developer has flexibility to site the turbines anywhere within that polygon up to the border.

The experience in Europe demonstrates that vessel navigation around and through a wind farm can be done safely via project-specific reviews and mitigation, and with measures typically less onerous than those proposed by the Coast Guard.

**Potential radar related impacts are well-understood as are potential mitigation options and should not be a barrier to deployment**

The draft NNYB PARS accurately summarizes potential effects from offshore wind turbines on marine radar systems and acknowledges the "potential for interference with marine radar is site specific and depends on many factors including, but not limited to, turbine size, array layouts, number of turbines, construction material(s), and the vessel types."[35]

[34] The UK government analysis of this project is available here: https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010079/EN010079-004268-Norfolk%20Vanguard%20Final%20Report%20to%20SoS%2010092019%20FINAL.pdf.
[35] Draft NNYB PARS, pages 43-44.

While the potential for interferences exists, studies to date suggest the impacts are not significant, are well-understood and there are measures that can be implemented to reduce potential impacts. For example, the Coast Guard's final MARIPARS[36] concludes, "The UK studies also show that additional mitigation measures, such as properly trained radar operators, properly installed and adjusted equipment, marked wind turbines and the use of AIS, enable safe navigation with minimal loss of radar detection."

The final MARIPARS discussion on radar issues is also consistent with the Coast Guard's conclusions regarding the 130 turbine Cape Wind project.[37] Notably, with respect to Cape Wind, the maximum distance between the turbines was 0.54 nm, which is narrower spacing than the projects with larger turbines being constructed today are proposing. Yet, even with this narrower turbine spacing, the Coast Guard found the impacts to marine radar were manageable and vessels could safely navigate within the vicinity of the wind farm. The Coast Guard position in 2009 applies just as well in 2021: "Affected waterways users may need to adjust somewhat to account for navigating within, and in the vicinity of, the proposed wind farm. Nevertheless, vessels operating within or near the proposed wind farm should be able to do so safely even in restricted visibility."

**Conclusion**

Thank you for your consideration of the issues raised in this letter. Please let ACP and NYOWA know if we can provide any additional information or clarifications on the points above.

Sincerely,



Tom Vinson
VP, Policy and Regulatory Affairs
American Clean Power Association



Joe Martens
Director
New York Offshore Wind Alliance

[36] Coast Guard, the Areas Offshore Massachusetts and Rhode Island Port Access Route Study, May 14, 2020, page 25. Available at: https://www.navcen.uscg.gov/pdf/PARS/FINAL_REPORT_PARS_May_14_2020.pdf
[37] Available at: https://www.boem.gov/sites/default/files/renewable-energy-program/Studies/USCGRADARfindingsandrecommendationsFINAL.pdf