



Billing Code 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 167

[USCG-2011-0351]

Port Access Route Study: The Atlantic Coast from Maine to Florida

AGENCY: Coast Guard, DHS.

ACTION: Notification.

SUMMARY: The Coast Guard published a document on March 14, 2016, that announced the availability of the final report issued by the Atlantic Coast Port Access Route Study (ACPARS) workgroup. In addition, the Coast Guard requested comments concerning the final report. After a review of the comments received, the Coast Guard has determined that it is not necessary to revise the final report, and therefore considers it to be complete as published.

DATES: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: If you have questions on this notification, contact George Detweiler, Coast Guard, telephone (202) 372-1566 or e-mail George.H.Detweiler@uscg.mil.

SUPPLEMENTARY INFORMATION:

Background and Purpose. The Coast Guard commenced its work on the Atlantic Coast Port Access Route Study by chartering a

workgroup (WG) on May 11, 2011. The Coast Guard published the WG's Interim Report in the Federal Register (77 FR 55781; Sep. 11, 2012), which provided a status of efforts up to that date. Subsequently, the Coast Guard published a notification in the Federal Register (81 FR 13307; Mar. 14, 2016) that announced the availability of the final report issued by the ACPARS WG. This document discusses the comments received and provides the Coast Guard's response to those comments. The final report is available on the Federal Register docket and also on the ACPARS Web site at www.uscg.mil/lantarea/acpars.

Discussion of Comments:

Comments were submitted by representatives of the maritime community, wind energy developers, non-government organizations, Federal and State government agencies, academic institutions and private citizens.

Topics covered by the comments included the Coast Guard's role and relationship with the Department of Interior, Bureau of Ocean Energy Management (BOEM), the Coast Guard-developed Marine Planning Guidelines and navigation corridors, protection of right whales and continued public outreach.

Coast Guard Cooperation With Stakeholders and the Marine

Planning Process

Some commenters urged the Coast Guard to coordinate and consult more closely with the other agencies associated with the

development of offshore wind, particularly the BOEM to finalize the ACPARS report, and to utilize the Regional Planning Bodies to obtain broad feedback in evaluating navigation safety issues. We generally agree with these comments, but must state that throughout the ACPARS process, we have worked closely with BOEM in conducting this study and developing the final report. Additionally, broad stakeholder consultation must still be conducted on a case-by-case basis for each particular project proposed, as each will present unique circumstances and navigational risks.

The Coast Guard has participated and will continue to participate in a lead permitting agency's National Environmental Policy Act (NEPA) process as a subject matter expert for navigation safety, maritime security, maritime mobility (management of maritime traffic, commerce, and navigation), national defense, and protection of the marine environment. In the case of wind farms on the Outer Continental Shelf (OCS), BOEM is the NEPA lead permitting agency and is responsible for the evaluation of environmental impacts and preparation of associated environmental documentation. BOEM and the Coast Guard have entered into a Memorandum of Agreement (MOA) to identify their respective roles and responsibilities as members of BOEM/State Renewable Energy Task Forces for Wind Energy Area (WEA) identification, the issuance of leases and approval of

Site Assessment Plans (SAPs), General Activity Plans (GAPs) and Construction and Operations Plans (COPs) for offshore renewable energy installations (OREIs). The Coast Guard will continue to work closely with BOEM in support of their Offshore Renewable Energy Program.

U.K. Marine Guidance Note 371 and Marine Planning Guidelines

Many commenters stated the Coast Guard premised its Marine Planning Guidelines (MP Guidelines) on Marine Guidance Note (MGN) 371, a United Kingdom (U.K.) publication that had been superseded, and further commented that the Coast Guard had misapplied MGN 371 in developing the MP Guidelines.

Additionally, some of these comments suggested that the Coast Guard should revise the MP Guidelines to be consistent with MGN 543, which superseded MGN 371. As discussed below, we disagree with these comments.

The United Kingdom's Maritime and Coastguard Agency (MCA) published MGN 371 in August of 2008, well before we began the ACPARS process. Through the study, we determined that there was no single international standard for establishing safe navigation distances from permanent structures in the marine environment. With the development of European offshore wind farms, several different standards or guidelines evolved, and we

considered each in development of the Coast Guard's MP Guidelines. In particular, we considered the guidance prepared by the Shipping Advisory Board Northsea, which was endorsed by the Confederation of European Shipmasters' Associations and used a formulaic approach that produces a 1.9 Nautical Mile (NM) distance from the side of a Traffic Separation Scheme (TSS) for a 400 meter vessel. The World Shipping Council recommended a minimum 2 NM safe distance from side of a Traffic Separation Scheme (TSS). We also considered the guidance prepared by the German Waterways and Shipping Directorate North West and North, which calls for a 2 NM setback to the side of a TSS, plus a 500 meter safety zone for each turbine. Last, we considered MGN 371, which throughout the study period reflected the current guidance of the U.K.'s MCA. Under MGN 371, the MCA considered a navigation buffer of 1 NM to 2 NM from the edge of a TSS to be medium risk, and greater than 2 NM to be low risk.

In January of 2016, after our work on the ACPARS was complete but before we released our final report for comment, the MCA published MGN 543, which superseded MGN 371. Through MGN 543, the MCA intended to simplify the Wind Farm Shipping Route Template (table, p. 13), which contained four columns and twelve defined distances associated with unique considerations ("Factors") and degrees of risk ranging from very high to very

low. The shipping route template in MGN 543 (p. 21) essentially consolidated the twelve safety distances to three, with less than 0.5 NM being "intolerable" and a range from 0.5 NM to 3.5 NM being "tolerable" if risks have been mitigated to a point termed "as low as reasonably possible" or ALARP. Last, the MGN 543 template considers distances beyond 3.5 NM to be "broadly acceptable."

Although some commenters may view MGN 543's revised template to have relaxed the recommended safe distances in MGN 371, we do not agree. Through MGN 543, the MCA sought to both simplify the template, and also make clear that generally there is a range of possible safe setback distances, and that a particular distance for any given wind farm would be determined by the unique circumstances of the project, which must be evaluated on a case-by-case basis.

Similarly, our MP Guidelines state that the Coast Guard will be a cooperating agency in the NEPA process wherein we will evaluate the Navigation Safety Risk Assessment unique to each proposed project, i.e., on a case-by-case basis. After consideration of several European guidelines, we determined that a 2 NM setback from the side of a TSS was the appropriate guidance for offshore wind farm developers. This distance is consistent with the MCA 371's demarcation for low risk, it is in

the middle of MGN 543's range for "tolerable if ALARP" and also consistent with the other European guidance we considered. As such, we do not intend to revise the MP Guidelines at this time.

It is important to note that the distances set forth in MGN 371, MNG 543 and our MP Guidelines are not standards, regulations or requirements of any type, but rather are guidance for developers to consider at the outset of a proposal. For example, both MGN 371 and MGN 543 state "[t]his Guidance Note, as the name implies, is intended for the guidance of developers and others." See p. 3 of both Notes. In similar language, the MP Guidelines states on p. 1 "[t]hese guidelines are provided to assist offshore developers and marine planners with their evaluation of the navigational impacts of any projects with multiple permanent fixed structures." Furthermore, on p. 6 of the MP Guidelines, we state "[t]hese recommendations are based on generic deep draft vessel maneuvering characteristics and are consistent with existing European guidelines."

As discussed above, the Coast Guard will evaluate each proposed project based upon the actual risks identified in the Navigation Safety Risk Assessment, and not by rigidly applying recommended distances from the MP Guidelines or any other similar guidance. Because our guidelines are neither regulations nor standards that must be applied, and because we

view MGN 543 as a simplification of its predecessor, MGN 371, we do not believe it is necessary or prudent to revise our MP Guidelines at this time.

Navigation Corridors

Various comments were received concerning navigation corridors. Some commenters said the navigation corridors were too large, or simply not necessary, whereas others said they were essential to preserve clear shipping lanes. Prior to the advent of offshore wind development, there was no need for a coordinated routing system along the entire Atlantic seaboard, and existing traffic separation schemes at the entrances to major ports were adequate to manage collision risks for commercial vessel traffic. As the potential for conflicting uses of the Atlantic Ocean has increased, the Coast Guard must evaluate options to reduce associated risks to navigation and the environment. The ACPARS identified the routes typically used by tug and barge traffic and deep draft ocean-going vessels. The identified navigation corridors in the final report simply reflect areas historically used by commercial vessels. The ACPARS report recommends that the navigation corridors should be considered during marine planning activities and incorporated into Regional Ocean Plans to ensure appropriate consideration is given to shipping early in the project siting

process. Some commenters have also suggested the Coast Guard apply the data and recommendations from the ACPARS to the marine planning process, and we agree with those comments.

The ACPARS report also recommended that the Coast Guard use the identified navigation corridors to establish shipping safety fairways (areas where permanent structures are not permitted) or other appropriate ships' routing measures. The Coast Guard is considering these recommendations, but has not yet determined if or how it may move forward on such routing measures. In the event the Coast Guard determines that shipping safety fairways or other routing measures must be further explored, it will engage all relevant stakeholders and ultimately commence a formal rulemaking process that will provide ample notice and opportunity for public and other stakeholder comment, and a thorough environmental review.

Protection of Right Whales

The Coast Guard received comments suggesting that offshore navigation corridors for deep draft traffic could endanger North Atlantic right whales if the corridors divert vessel traffic around wind farms into areas where these endangered whales tend to migrate. Although the offshore navigation corridors identified simply reflect existing vessel traffic patterns already in use, the Coast Guard would consult with National Oceanic and Atmospheric Administration, interagency partners and

other stakeholders through the NEPA and marine planning processes as a necessary part of any action to formally establish routing measures associated with the ACPARS or particular wind farm proposals.

Continued Public Outreach

Some commenters recommended that the Coast Guard continue outreach efforts with affected states and federal agencies, the marine shipping industry, the wind energy industry and the general public, which could include participation in stakeholder outreach activities, public meetings, workshops and industry meetings and conferences. The Coast Guard concurs with the recommendation and will continue its outreach program through the Regional Planning Bodies.

Summary

For the foregoing reasons, the Coast Guard considers the ACPARS report to be complete and will not make changes to it at this time.

This notification is issued under authority of 33 U.S.C. 1223(c) and 5 U.S.C. 552.

Dated: March 31, 2017.

Michael D. Emerson,
Director, Marine Transportation Systems,

U.S. Coast Guard.

[FR Doc. 2017-06738 Filed: 4/4/2017 8:45 am; Publication Date: 4/5/2017]