



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 147

[Docket Number USCG-2024-0356]

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: Temporary final rule.

SUMMARY: The Coast Guard is establishing 16 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 May 1, 2024, to May 31, 2024. When enforced, only attending vessels and vessels with authorization are permitted to enter or remain in the temporary safety zones.

DATES: This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], through 11:59 p.m. on May 31, 2024. For the purposes of enforcement, actual notice will be used from May 1, 2024, until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2024-0356 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related

Material.”

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

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

BOEM	Bureau of Ocean Energy Management
CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
OCS	Outer Continental Shelf
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. Hence, after determining that establishment of safety zones was necessary to provide for the safety of life, property, and the environment during the anticipated construction of the structures, on March 21, 2024, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Safety Zone; Revolution Wind Farm Project Area, Outer Continental Shelf, Lease OCS-A 0486, Offshore Rhode Island, Atlantic Ocean” (89 FR 20150) to begin construction on June 1st. There we explained the basis for the NPRM

and invited comments on our proposed regulatory action related to the establishment of safety zones around the construction of 65 Wind Turbine Generators (WTG) and two Offshore Sub Stations (OSS) located in the RWF project area. 86 comments were received during the comment period that ended April 22, 2024, that are currently being considered before the safety zones are modified or extended.

The Coast Guard is issuing this temporary rule under authority in 5 U.S.C. 553(b)(B). This statutory provision authorizes an agency to issue a rule without prior notice and opportunity to comment when, for good cause, the agency finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” The Coast Guard finds that good cause exists to not complete notice and comment procedures in this case because it would be impracticable and contrary to the public interest of ensuring the safety of mariners transiting the area. After the aforementioned March 21, 2024 NPRM was published, the Coast Guard was informed that construction of RWF project area could begin as soon as May 1, 2024, leaving insufficient time to consider the received comments, and issue a final rule by this anticipated date of construction.

Under 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register considering the anticipated start of construction on May 1, 2024. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to respond to the potential safety risks associated with the extremely complex and unusually hazardous construction of these OCS facilities including hydraulic pile driving hammer operations, heavy lift operations, overhead cutting operations, potential falling debris, increased vessel traffic, and stationary barges in close proximity to the facilities and each other, occurring at times within 12 NM of shore.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under the authority provided in 14 U.S.C.

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

IV. Discussion of Rule

This rule establishes 16 temporary 500-meter safety zones around the construction of 16 WTGs on the OCS from May 1, 2024, through 11:59 p.m. on May 31, 2024.

The construction of these facilities is expected to repeatedly include the installation of the monopile type foundations followed by the installation of the upper structures for all 16 facilities. Major construction activity could take place at several locations simultaneously in the lease area for these 16 facilities. The Coast Guard will 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.

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

The 16 temporary 500-meter safety zones around the construction of the WTGs 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 are 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 temporary safety zones will 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
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
AG06	WTG	41°11.554'N	71°10.302'W
AJ02	WTG	41°09.452'N	71°15.530'W
AK12	WTG	41°08.699'N	71°02.260'W
AL21	WTG	41°07.887'N	70°50.387'W
AM21	WTG	41°06.904'N	70°50.325'W
AN13	WTG	41°05.675'N	71°00.836'W
AN16	WTG	41°05.792'N	70°56.911'W
AP13	WTG	41°04.731'N	71°00.873'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>.

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

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 rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

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 rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the rule 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 rule 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 May 1, 2024, through May 31, 2024, vessels would only be prohibited from the regulated zone during periods of actual construction activity in conjunction with the period of enforcement. We expect the enforcement period at each location to last for a short period. 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.

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.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this 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 rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

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 rule would not result in such an expenditure, we do discuss the effects of this 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 rule involves the establishment of a safety zone around an OCS facility to protect life, property, and the marine environment. It is categorically excluded from further review under paragraph L60 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A 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.

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.

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.T01-0356 to read as follows:

§ 147.T01-0356 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
AE10	WTG	41°13.652'N	71°05.081'W
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AF05	WTG	41°12.528'N	71°11.647'W

AG06	WTG	41°11.554'N	71°10.302'W
AJ02	WTG	41°09.452'N	71°15.530'W
AK12	WTG	41°08.699'N	71°02.260'W
AL21	WTG	41°07.887'N	70°50.387'W
AM21	WTG	41°06.904'N	70°50.325'W
AN13	WTG	41°05.675'N	71°00.836'W
AN16	WTG	41°05.792'N	70°56.911'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 May 1, 2024, through 11:59 p.m. on May 31, 2024. 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 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, 2024, 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: April 30, 2024

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

[FR Doc. 2024-09754 Filed: 5/3/2024 8:45 am; Publication Date: 5/6/2024]