



16003
October 27, 2020

Ms. Annie Hawkins, Executive Director
Responsible Offshore Development Alliance (RODA)
P.O. Box 66704
Washington, DC 20035

**Re:Massachusetts and Rhode Island Port Access Route Study;
Responsible Offshore Development Alliance's (RODA)
Request for Correction Pursuant to Information Quality Act Guidelines**

Dear Ms. Hawkins:

On behalf of the U.S. Department of Homeland Security, the Coast Guard writes in response to your June 29, 2020 request for correction under applicable Information Quality Act guidelines (IQA Guidelines), which was received by both the Commander, First Coast Guard District and the U.S. Department of Homeland Security. Your request, which the Department acknowledged on July 16, 2020 and the Coast Guard acknowledged separately on July 15, 2020, seeks certain corrections to the United States Coast Guard's Massachusetts and Rhode Island Port Access Route Study (MARIPARS) and corresponding Notice of Availability. More specifically, your IQA request alleges the following errors for which you seek correction:

- a. Inappropriate selection of fisheries data sources;
- b. Complete absence of analysis of fishing vessel operational requirements;
- c. Unjustified analysis of only one layout design rather than a range of designs;
- d. Inclusion of clear mathematical errors; and
- e. False assertions regarding radar interference.

For the reasons discussed below, the Coast Guard concludes that neither retraction nor correction of information in the MARIPARS is warranted, and therefore denies your request.

I. Background

The underlying purpose of the MARIPARS, which was conducted in accordance with the Ports and Waterways Safety Act¹ and Coast Guard policy on marine planning² was to evaluate the need for the Coast Guard to establish vessel routing measures near or through the Massachusetts and Rhode Island wind energy area (MA/RI WEA). As part of this process the Coast Guard considered potential impacts to both navigational safety and to Coast Guard operations posed by the installation of offshore wind energy structures in the study area.

¹ See 33 U.S.C. § 1223(c) (2019) (now found at 46 U.S.C. § 70003).

²² Appendix D, Marine Planning to Operate and Maintain the Marine Transportation System (MTS) and Implement National Policy, COMDTINST 16003.3B (June 28, 2019).

To commence the study, the Coast Guard published a Notice of Study in the Federal Register on March 26, 2019 seeking public comment on the current uses of the MA/RI WEA. The Federal Register Notice clearly stated in both the Summary and the Purpose and Background that the Coast Guard was evaluating the need to establish navigation safety fairways or traffic separation schemes as a result of seven leases granted to wind energy developers by the Bureau of Offshore Energy Management (BOEM). Additionally, the Notice contained one diagram of proposed vessel transit routes through the WEA prepared by the Massachusetts Coastal Zone Management Fisheries Working Group and an alternative diagram of transit routes prepared by RODA. The Coast Guard sought public comments on both proposals, and additionally held public meetings in New York, Rhode Island and Massachusetts to obtain views directly from the maritime community. Last, the Coast Guard conducted in-person outreach at relevant stakeholder forums and collected electronic data from equipment used by vessels that navigate through the study area.

Following the close of the sixty-day comment period, the Coast Guard evaluated the data and comments received, but also published new national policy regarding how the Service would evaluate navigational safety impacts posed by offshore renewable energy installations. As a result of that new policy, the five wind energy developers holding the seven leases in the MA/RI WEA jointly presented the Coast Guard with a proposed wind turbine arrangement intended to meet the newly published Coast Guard policy. To avoid the irregular wind farm layouts observed in Europe, the Coast Guard stated a strong preference for consistent lines of orientation that give predictability to both mariners transiting through offshore structures, and to Coast Guard vessels and aircraft conducting missions in such areas. On January 29, 2020 the Coast Guard published the draft MARIPARS report in the Federal Register with a new public comment period ending on March 16, 2020.³ The Coast Guard considered RODA's views through all steps of the Port Access Route Study, the fundamental purpose of which as stated consistently by the Coast Guard through the study process, was to determine whether vessel routing measures were necessary as a result of the expected development of the MA/RI WEA. Last, the Coast Guard also used the study process—albeit without seeking public comment—to evaluate its own ability to safely operate cutters and aircraft in the MA/RI WEA.

At the conclusion of the MARIPARS, the Coast Guard made policy decisions to not recommend vessel routing measures within or near the study area and further opined that the majority of vessels that transit or fish within the study area could safely do so long as all structures across the seven lease areas were aligned on a common orientation with a minimum of one nautical mile spacing on the East/West and North/South axes. Finally, the Coast Guard determined that this combination of alignment and spacing would also enable all routine Coast Guard operations, with a specific focus on Search and Rescue (SAR) by aircraft.

II. Information Quality Guidelines

³ See Federal Register Docket No. USCG-2019-0131.

The Office of Management and Budget (OMB)'s "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies" (OMB IQA Guidelines) require federal agencies to "embrace a basic standard of quality that ensures the objectivity, utility, and integrity of disseminated information."⁴ The OMB recognizes "that some government information may need to meet higher or more specific quality standards than those that would apply to other types of government information, depending on the information's expected use. *The touchstone is fitness for purpose*; information destined for a higher-impact purpose must be held to higher standards of quality."⁵

The OMB IQA Guidelines characterize a subset of agency information as "influential scientific, financial, or statistical information" that is held to higher quality standards.⁶ This is scientific, financial, or statistical information that "the agency can reasonably determine ... will have or does have a clear and substantial impact on important public policies or important private sector decisions."⁷ The DHS and Coast Guard IQA Guidelines apply this same definition of influential scientific, financial, or statistical information.⁸ The OMB further clarified the term influential:

"A specific piece or body of information is "influential" when it is a principal basis for a decision by a federal decision maker, that is, if the same decision would be difficult to reach in that information's absence or if the decision would lose its fundamental scientific, financial, or statistical underpinnings absent the information. Even if a decision is very important, a particular piece of information supporting it may or may not be "influential," depending on whether the decision could be reached in the information's absence."⁹

While conducting the MARIPARS, the Coast Guard collected a broad range of information (e.g. information on historic vessel traffic density; fishing, boating, and ferry traffic; military activities; environmental factors; port development plans and economic cost and benefit impacts; Native American Tribal activities; and information arising from public comments) and then evaluated that information to determine the need for new or amended routing measures. The analysis involved estimating traffic density by overlaying historical Automatic Identification System (AIS) and Global Positioning System (GPS) track lines, which reflect actual vessel transits, and conducting basic computations regarding vessel turning and operating characteristics. The analysis was neither scientific nor statistical in nature, but is typically used, and indeed adequate, to make internal policy decisions, as clearly stated in the Federal Register notices both commencing the study and requesting comments on the draft study report. This

⁴ See OMB Memorandum M-19-15, Improving Implementation of the Information Quality Act, at 2-3 (April 24, 2019) (citing Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies, 67 FR 8452 (February 22, 2002)).

⁵ Id. at 3.

⁶ Id.

⁷ Id.

⁸ See DHS Directive 139-02-001, "Information Quality Implementation," at 11 (November 27, 2019); Coast Guard Data Quality Management for Publicly Disseminated Information, COMDTINST 5210.11, at 3 (August 5, 2004).

⁹ OMB Memorandum M-19-15, Improving Implementation of the Information Quality Act, at 3 (April 24, 2019).

information was gathered and evaluated for the purpose of making policy decisions regarding the need for vessel routing measures and the ability of Coast Guard assets to operate in the developed WEA, and it is indisputably fit for that purpose.

The MARIPARS is only “influential” to the extent that it would form the basis of a subsequent Coast Guard policy decision to commence a rulemaking for the purpose of establishing a new routing measure or amending an existing one. Any resultant rulemaking process would again require an additional public notice and comment period, with an associated environmental analysis, before a final agency decision could be made. The Coast Guard routinely conducts port access route studies to ensure navigational safety in the off-shore approaches to the United States.¹⁰ The MARIPARS, like any PARS, is a study intended to make recommendations, and is not a decision in and of itself.

Your letter suggests the MARIPARS is tantamount to a final decision about the turbine layout within the MA/RI WEA, however that decision will ultimately be made by BOEM, which in addition to the Coast Guard's navigational safety opinion, will consider many other inputs such as environmental data including biological resource consultations, the impacts of construction and maintenance activities, the projected power production of the layout, and other public and governmental agency comments. Simply put, the MARIPARS is one of many inputs relevant to BOEM's final decisions on *if and where* to locate offshore structures in the MA/RI WEA. Even if a decision is very important, a particular piece of information supporting it may or may not be influential, depending on whether the decision could be reached in the information's absence. The decision on wind turbine siting in the MA/RI WEA may be very important, but the MARIPARS is not influential because the decisions on wind turbine siting could be made in its absence.

Furthermore, you assert the MARIPARS is highly influential, and thus requires peer review. To support this position, you state that the study was conducted “to recommend layouts to BOEM for the New England offshore wind energy lease areas.” This statement, however, ignores the clearly stated purpose for the study in each Federal Register notice published by the Coast Guard. “In order to provide safe access routes for the movement of vessel traffic offshore of the Massachusetts and Rhode Island area of the United States and transiting within the United State Exclusive Economic Zone (EEZ), the Coast Guard is conducting the Massachusetts and Rhode Island Port Access Route Study (MARIPARS) to evaluate the need for establishing vessel routing measures.” At the end of the study process, the Coast Guard concluded that it would not pursue regulatory routing measures if the MA/RI WEA were developed with a continuous grid pattern, which is consistent with the guidance the Coast Guard published in August, 2019, and a minimum of one nautical mile spacing between turbines. The Coast Guard opined this distance would be adequate for fishing vessels to safety operate in the area and for Coast Guard assets, particularly SAR helicopters, to conduct missions there, as well. Last, the Coast Guard recommended mariners transiting the WEA exercise additional caution given the planned

¹⁰ See United States Coast Guard, Navigation Center, Port Access Route Study Reports, available at <https://www.navcen.uscg.gov/?pageName=PARSReports> (last visited August 13, 2020).

placement of structures in an area that is now open sea. Recommending a minimum spacing needed for SAR helicopters, which is also adequate for fishing vessel operation, and urging mariners to use extra caution can hardly be classified as highly influential, therefore no peer review of the MARIPARS is required.

Because the information evaluated by the Coast Guard is fit for its intended purpose—to inform policy decisions—and it is neither influential nor highly influential under applicable IQA Guidelines, your request for a peer review is denied.

III. Response to specific assignments of error

a. Inappropriate data sources

Your request contends that the MARIPARS relied on inappropriate data sources by only analyzing Automated Identification System (AIS) data and including only two active fishing contacts. This implies the data presented is not representative of the actual fishing vessel activity in the MA/RI WEA.

The MARIPARS analysis included multiple data sources. In addition to AIS data, the Coast Guard reviewed GPS tracks directly from the chart plotters of commercial fishing vessels that operate in the examined area and reviewed the available data from the Vessel Monitoring System (VMS) of commercial fishing vessels. These other data sources validated the AIS data, indicated that fishing vessels generally transit through the MA/RI WEA in a northwest to southeast direction, and indicated that fishing vessels actively fish in an east to west direction and vice versa. Although there was some conjecture regarding alternative fishing vessel fishing patterns noted during public outreach and comment, the Coast Guard did not receive and remains unaware of any data supporting an alternative view or contradicting its findings.

The MARIPARS was designed to reach a diverse and representative grouping of all waterway users. Commercial fishermen were engaged in person at three public meetings and had the opportunity to provide input during the 60-day comment period commencing on March 26, 2019 following announcement of the study, and during the 45-day comment period beginning on January 29, 2020 following publication in the Federal Register of the draft report. Commercial fishermen who actively fish in the MA/RI WEA were also represented by the Commercial Fisheries Center of Rhode Island (CFCRI), via the Rhode Island Coastal Resources Management Council (CRMC). The CFCRI represents both the fixed and mobile gear fisheries in Rhode Island. Commercial fisherman were also represented through RODA.

b. Absence of analysis of fishing vessel operational requirements.

Your request claims the MARIPARS does not analyze spatial requirements or other important factors regarding fishing within future wind farms and does not analyze potential changes in traffic patterns resulting from the wind farm buildout. The implication is that commercial fisherman will be unable to actively fish within a wind farm in the same way or as

productively as they do today. The Coast Guard met multiple times with commercial fishing operators and interest groups who repeatedly indicated that they required one nautical mile (1 NM) of spacing between turbines in an east to west orientation to continue to actively fish within a wind farm. While, again, there was some conjecture regarding their requirements, the Coast Guard did not receive and remains unaware of any data supporting an alternative view or contradicting its findings.

The recommendations in the MARIPARS are further supported by current fishing patterns. As noted in the MARIPARS, there currently exists a "gentlemen's agreement" between fixed gear and mobile gear fishermen, dating back to 1996. The "gentlemen's agreement," which is validated by the GPS data received by the Coast Guard, is designed to ensure mobile fishing gear does not become ensnared in fixed fishing gear. Under the agreement, the fixed and mobile gear fishermen use LORAN C lines to delineate where each may fish, and under its terms, the fishing vessels are generally operating in a standard and uniform grid pattern comparable to the standard and uniform grid pattern that would result in the MA/RI WEA, assuming a wind farm layout incorporating the Coast Guard's recommendations.¹¹

c. Unjustified analysis of only one layout design rather than a range.

Your request challenges the MARIPARS for making recommendations aligned with the turbine layout proposed by the five New England lease-holding offshore wind energy developers and not evaluating a range of navigation safety corridor options submitted through comments and public input.

For historical perspective, when the MARIPARS was announced in March 2019, the five New England lease-holders had not agreed to a standard layout for the seven adjacent projects comprising the MA/RI WEA. The only two projects planned at the time were adjacent lease areas with different proposed layouts, which presented inconsistent turbine spacing at less than 1 NM, and no planned navigation safety corridors. The MARIPARS was already going through an internal review process at the First Coast Guard District when in August of 2019, Coast Guard Headquarters published Navigation and Vessel Inspection Circular (NVIC) 01-19, *Guidance on the Coast Guard's Roles and Responsibilities for Offshore Renewable Energy Installations (OREI)*. The new NVIC identified information that the Coast Guard should use to evaluate the potential impacts of an OREI on the Marine Transportation System (MTS), navigation safety, the traditional uses of waterways, and Coast Guard missions. In October of 2019, the lease-holders then presented a unified plan consistent with the NVIC and the fishing industry input that turbines be spaced 1 NM apart. The MARIPARS was not intended to evaluate a range of stakeholder-provided designs, but rather to assess the requirements for safe navigation.

¹¹ More specifically, the lobsterman and gillnetters (fixed gear fishermen) set their gear on the "0s" and "5s" LORAN C lines (e.g., 43900, 43905, 43910, etc.), and the mobile gear fishermen (scallopers, trawlers, and clambers) tow their gear between the "0s" and "5s" (e.g. between the 43901-43904 lines), which are in a general east to west direction. The space between the "0s" and "5s" in the MA/RI WEA is approximately seven tenths of a mile (.7 NM).

The MARIPARS assessed the types and density of vessels that transit through and operate within the MA/RI WEA employing a recognized methodology to evaluate the amount of space needed for vessels to operate in accordance with the International Regulations for Preventing Collisions at Sea (COLREGS). From that assessment, the Coast Guard determined that a standardized and uniform grid of 1 NM spacing between turbines would provide sufficient spacing for vessels less than 144 feet to safely transit through the MA/RI WEA. The uniform grid of 1 NM spacing between turbines creates sufficient space to safely navigate in accordance with the COLREGS.

d. Inclusion of clear mathematical errors.

Your request claims mathematical errors in the MARIPARS. You also note the MARIPARS does not include a safety zone of 500 meters on each side of the transit lanes. The alternative calculations provided in your letter as examples of errors do not adequately adjust for vessel size and traffic density, two important factors when determining the amount of space needed for vessels to operate in accordance with the COLREGS. This is apparent in the closest point of approach ("CPA") calculation example provided. The CPA calculation noted in the Coast Guard's marine planning guidelines is appropriate for vessels 300 - 400 meters in length (984 ft -1312 ft).¹² The largest vessels that routinely operate in, or transit through, the study area are 144 feet long. As noted in the MARIPARS, larger commercial traffic that currently transits through the southern sections of the MA/RI WEA will transit around the turbine array, vice through it. Adjusting the CPA calculation for even the largest fishing vessels operating in the area would result in a recommended spacing between turbines of only two tenths of a mile (0.2 NM).

The Coast Guard chose to employ the methodology from the Maritime Institute of the Netherlands study based upon its ability to adjust for vessel size and traffic density, among other factors. As the MARIPARS was the first navigation study in the United States involving offshore wind farms, the Coast Guard looked to existing projects to glean lessons learned. In the European projects where the wind farms were developed to allow for safe vessel navigation through the farms, developers and governments used the formula in the Maritime Institute of the Netherlands study to evaluate the required distance between structures.

The Coast Guard did not include a 500 meter safety zone on each side of each transit lane by design. Safety zones are discretionary regulatory measures, and usually temporary in nature. A permanent 500 meter safety zone around each tower is not currently contemplated. However, a place-holder for a single 500 meter safety zone within each transit lane was included to accommodate a potential need for vessels to safely service the turbines without hindering the navigation safety of other vessels. When determining the necessary space between turbines, the Coast Guard assigned one safety zone per transit lane due to the unlikelihood of vessels servicing multiple adjacent turbines on each side of a lane simultaneously, the ability of vessels to transit

¹² See Appendix D, Marine Planning to Operate and Maintain the Marine Transportation System (MTS) and Implement National Policy, COMDTINST 16003.3B (June 28, 2019).

around construction or maintenance activities using alternate lanes, and the ability of the Coast Guard to control the locations and times of the safety zones.

e. *False assertions regarding radar interference.*

Your request asserts the MARIPARS ignores available information on concerns associated with radar interference. The MARIPARS notes that the Coast Guard reviewed several studies on marine radar interference associated with wind turbines. These studies were relevant to correlations between future wind turbines in the MA/RI WEA and potential marine radar interference. Other studies, however, including those specific to Doppler radar, were not relevant, as they are not applicable to marine radar interference or do not provide a definitive analysis to the impacts on navigation safety. As noted in the MARIPARS, radar interference is site specific and related to many factors. The presence of large structures in the ocean where none previously existed will undoubtedly produce some radar interference. The 2009 Cape Wind assessment referenced by RODA states "the Coast Guard finds that vessels would be able to navigate safely within and in the vicinity of the proposed wind farm, and that the impact of the proposed wind farm on safety of navigation is moderate."¹³ To date, the Coast Guard remains unaware of an authoritative scientific study that confirms or refutes the concern that turbines and their blades will cause navigation safety concerns based on degraded marine radar.

Based on its review of your request, the Coast Guard concludes that neither retraction nor correction of information in the MARIPARS is warranted, and therefore denies your request. The Department's IQA guidelines provide the petitioners with the right to an administrative appeal. Any appeal of this decision must be submitted within 30 calendar days of this response letter. Please direct any appeals to:

Department of Homeland Security
ATTN: Office of the Chief Information Officer/Information Quality Officer
245 Murray Lane, SW
Mail Stop 0136
Washington, DC 20528
Email: DHS.InfoQuality@hq.dhs.gov

Sincerely,



Michael D. Emerson
Director, Marine Transportation Systems
U. S. Coast Guard

¹³ See U.S. Coast Guard Assessment of Potential Impacts to Marine Radar As It Relates To Marine Navigation Safety From the Nantucket Sound Wind Farm As Proposed By Cape Wind, LLC (January 2009); Enclosure (1) to U.S. Coast Guard Letter 16670 to Minerals Management Service (January 13, 2009).