

immigrant juveniles (SIJs). See sections 203(b)(4) and 101(a)(27) of the INA, 8 U.S.C. 1153(b)(4), 1101(a)(27).

II. Discussion of the Change Reflected in the April 2023 Visa Bulletin

The Department seeks to clarify that the INA permits prorated allocation of available visas within an employment-based preference category to nationals from an individual country only when family-sponsored and employment-based preference visa demand from that country will exceed its per-country limit under INA section 202(a)(2), 8 U.S.C. 1152(a)(2). Consistent with this interpretation, the Department is no longer assigning separate final action and filing dates for individuals chargeable to any of the NCA Countries in the EB-4 category and individuals chargeable to these three countries are now subject to the dates in the column headed “All Chargeability Areas Except Those Listed” (referred to herein as “ROW,” meaning the rest of the world). The Department is required to make this change to bring Department practice, as reflected in the *Visa Bulletin*, into compliance with these INA provisions. As a result of this change, there is no longer a need for a separate column for the NCA Countries in the employment-based preference “Final Action Dates” and “Dates for Filing” charts in the *Visa Bulletin*.

Specifically, INA 202(a), 8 U.S.C. 1152(a), makes clear that the per-country limit, which is implemented by setting final action dates for a country in the *Visa Bulletin*, is triggered only when preference immigrant visa demand from a country will exceed seven percent of the total number of preference visas made available in INA section 203(a)–(b), 8 U.S.C. 1153(a)–(b); that is, seven percent of the total number available for all family-sponsored and employment-based preference immigrant visas available worldwide.

This change corrects misapplication of the law in prior *Visa Bulletins*, beginning with the May 2016 *Visa Bulletin*, which added a separate column to the “Final Action Dates for Employment-Based Preference Cases” table, showing that EB-4 applicants chargeable to the NCA Countries were assigned an EB-4 final action date separate from the ROW column and these three countries were listed as “oversubscribed” and subject to the pro-rating provision at INA 202(e)(3), 8 U.S.C. 1152(e)(3). The May 2016 *Visa Bulletin* explained that “extremely high demand” in the EB-4 category (including the EB-4 subcategory for Certain Religious Workers (SR)) for

applicants from the NCA Countries required implementation of final action dates in the EB-4 category for these countries. EB-4 final action dates were thus established for these three countries since May 2016 based on their high demand for EB-4 visas. The same approach was reflected in subsequent *Visa Bulletins* and in the corresponding table with “Dates for Filing of Employment-Based Visa Applications,” beginning with the October 2017 *Visa Bulletin*. However, that contravenes the Department’s current interpretation of the statutory prerequisite for when a country can be deemed oversubscribed and allocation of preference visas can be pro-rated: that the INA provision on pro-rating is based on a country’s demand for more than seven percent of all preference visas, not one subcategory.

As none of the NCA Countries are expected to exceed the per-country limit under INA 202(a)(2), 8 U.S.C. 1152(a)(2), there is no basis under the INA to set final action dates and dates for filing for employment-based preference visas that are specific to those countries.

Julie Stuft,

*Deputy Assistant Secretary for Visa Services,
Bureau of Consular Affairs, Department of
State.*

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0257]

RIN 1625–AA00

Safety Zone; Missouri River Mile Markers 175.5–176.5, Jefferson City, MO

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters in the Missouri River at Mile Marker (MM) 175.5 to 176.5. The safety zone is needed to protect personnel, vessels, and the marine environment from all potential hazards associated with electrical line work. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or a designated representative.

DATES: This rule is effective without actual notice from March 28, 2023

through April 21, 2023. For the purposes of enforcement, actual notice will be used from March 22, 2023, until March 28, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2023–0257 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 on this rule, call or email MSTC Nathaniel Dibley, Sector Upper Mississippi River Waterways Management Division, U.S. Coast Guard; telephone 314–269–2550, email Nathaniel.D.Dibley@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of The Port Sector Upper
Mississippi River
DHS Department of Homeland Security
FR Federal Register
MM Mile marker
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We must establish this temporary safety zone immediately to protect personnel, vessels, and the marine environment from potential hazards created by the electrical work and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with the ongoing construction work.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Upper Mississippi River (COTP) has determined that potential hazards associated with electrical line work will be a safety concern for anyone operating or transiting within the Missouri River from MM 175.5–176.5. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while electrical line work is being conducted.

IV. Discussion of the Rule

Electrical line work will be occurring near MM 175.5–176.5 beginning March 24, 2023. The safety zone is designed to protect waterway users until work is complete.

No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector Upper Mississippi River. To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through USCG Sector Upper Mississippi River at 314–269–2332. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative. The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement, as well as reductions in the size of the safety zone as conditions improve, through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Safety Marine Information Broadcast (SMIB), as appropriate.

V. 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, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on a safety zone located on the Missouri River at MM 175.5–176.5, near Jefferson City, MO. The Safety Zone is expected to be active only during the hours of 9 a.m. through 4 p.m., or only when work is being conducted, every day until April 21, 2023.

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 rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator because the zone will be enforced only when work is being conducted.

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 rule. If the 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 rule will 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 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 will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this 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 determined 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 a safety zone encompassing the width of the Missouri River at MM 175.5–176.5. It is categorically excluded from further review under paragraph L60(a) 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 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security Measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

- 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

- 2. Add § 165.T08–0257 to read as follows:

§ 165.T08–0257 Safety Zone; Missouri River, Mile Markers 175.5–176.5, Jefferson City, MO

(a) *Location.* The following area is a safety zone: all navigable waters within Missouri Mile Markers (MM) 175.5–176.5.

(b) *Enforcement period.* This section will be subject to enforcement from March 24, 2023, through April 21, 2023.

(c) *Regulations.* (1) In accordance with the general safety zone regulations in § 165.23, entry of persons or vessels into this safety zone described in paragraph (a) of this section is prohibited unless authorized by the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector Upper Mississippi River.

(2) To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through USCG Sector Upper Mississippi River at 314–269–2332. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement, as well as reductions in size or scope of the safety zone as ice or flood conditions improve, through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Safety Marine Information Broadcast (SMIB) as appropriate.

Dated: March 22, 2023.

D.J. Every,

Alternate, Captain of the Port, U.S. Coast Guard, Sector Upper Mississippi River.

[FR Doc. 2023–06314 Filed 3–27–23; 8:45 am]

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DEPARTMENT OF EDUCATION

34 CFR Parts 600, 668, and 690

[Docket ID ED–2022–OPE–0062]

RIN 1840–AD54, 1840–AD55, 1840–AD66, 1840–AD69

Pell Grants for Prison Education Programs; Determining the Amount of Federal Education Assistance Funds Received by Institutions of Higher Education (90/10); Change in Ownership and Change in Control; Correction

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations; correction.

SUMMARY: On October 28, 2022, the Department of Education (Department) published in the **Federal Register** final regulations for the Pell Grants for Prison Education Programs (PEPs). This document corrects those regulations by clarifying the requirements associated with an accrediting agency's review of a new PEP.

DATES: This correction is effective July 1, 2023.

FOR FURTHER INFORMATION CONTACT: Aaron Washington. Telephone: (202) 987–0911. Email *Aaron.Washington@ed.gov*.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION: On October 28, 2022, the Department published in the **Federal Register** final regulations that, among other things, establish requirements for postsecondary educational institutions to offer PEPs (87 FR 65426), effective July 1, 2023. The approval process for new PEPs under § 668.237(b) requires

review by the postsecondary educational institution's accrediting agency. Specifically, under § 668.237(b)(4), the accrediting agency must have reviewed and approved the methodology for how the institution, in collaboration with the oversight entity, made the determination that the prison education program meets the same standards as substantially similar programs that are not prison education programs at the institution. Under § 668.236(a)(3), however, the oversight entity is not required to make this determination until two years after the initial PEP is approved to operate by the Department.

We are correcting § 668.237(b)(4) by adding the words “If the requirements of § 668.236(a)(3) are satisfied,” to make clear that, as part of its review of new PEPs, the accrediting agency reviews the referenced methodology only after the two-year period set forth in § 668.236(a)(3).

Correction

In FR Doc. 2022–23078, published in the **Federal Register** on October 28, 2022 (87 FR 65426), on page 65496, in the third column, in § 668.237, paragraph (b)(4) is corrected to read as follows:

§ 668.237 [Corrected]

* * * * *

(b) * * *

(4) If the requirements under § 668.236(a)(3) are satisfied, reviewed and approved the methodology for how the institution, in collaboration with the oversight entity, made the determination that the prison education program meets the same standards as substantially similar programs that are not prison education programs at the institution.

Accessible Format: On request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

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