

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 that will prohibit entry within 250 feet of vessels and machinery being used by personnel to salvage the vessel AURORA. 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.T11-167 to read as follows:

#### § 165.T11-167 Safety Zone; Little Connection Slough, Stockton, CA.

(a) *Location.* The following area is a safety zone: All waters of Little Connection Slough, from surface to bottom, within 250 feet of the vessel AURORA at the following coordinates 38°3'29" N, 121°30'3" W. These coordinates are based on North American Datum 83 (NAD 83).

(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 Captain of the Port San Francisco (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by contacting the 24-hour Command Center at telephone (415) 399-3530. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 12:01 p.m. on May 29, 2024, until 11:59 p.m. on June 30, 2024.

Dated: May 28, 2024.

**Jordan M. Balduenza,**

*Captain, U.S. Coast Guard, Captain of the Port Sector San Francisco.*

[FR Doc. 2024-12155 Filed 6-3-24; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Parts 173 and 174

[Docket No. USCG-2023-0600]

RIN 1625-AC92

### Digital Certificate of Number for State Numbered Vessels

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule is intended to amend the Coast Guard's requirements for a Certificate of Number (CON) for vessels to allow any CON to be carried in hard copy or digital form. This aligns our current CON requirements with statutory changes made by the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023.

**DATES:** This final rule is effective July 5, 2024.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2023-0600 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

This final rule with its plain-language, 100-word-or-less summary will be available in this same docket.

**FOR FURTHER INFORMATION CONTACT:** For information about this document call or email Thomas Guess, Coast Guard CG–BSX–2; telephone 206–815–0221, email [Thomas.E.Guess@uscg.mil](mailto:Thomas.E.Guess@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

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**I. Abbreviations**

NDA 2023 James M. Inhofe National Defense Authorization Act for Fiscal Year 2023  
 CFR Code of Federal Regulations  
 CG–BSX Office of Auxiliary and Boating Safety  
 CON Certificate of Number  
 DHS Department of Homeland Security  
 FR Federal Register  
 OMB Office of Management and Budget  
 RA Regulatory analysis  
 § Section  
 SMEs Subject matter experts  
 U.S.C. United States Code

**II. Basis, Purpose, and Regulatory History**

The statutory authority for this final rule can be found in 46 U.S.C. 12301 and 12304. Section 12301 states that undocumented vessels equipped with propulsion machinery on waters subject to U.S. jurisdiction must have a number issued by the proper issuing authority in the State in which the vessel is principally operated. Section 12304 describes a Certificate of Number (CON) and requires the CON to be available for inspection on the vessel when it is in operation, unless the vessel is under 26 feet and is leased or rented to another individual for noncommercial use for less than 7 days. Under 46 U.S.C. 12302, the Secretary of the Department of Homeland Security (DHS) is charged with issuing regulations to create a standard numbering system for vessels to which 46 U.S.C. chapter 123 applies, including the regulations in 33 CFR part 174. The Secretary delegated the authority to issue rules for identification

of vessels to the Coast Guard in DHS Delegation No. 00170.1(II)(92)(h), Revision No. 01.4.

Section 11506 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Pub. L. 117–263, December 23, 2022) (NDAA 2023) amended 46 U.S.C. 12304 to permit any CON “in hard copy or digital form,” while retaining the prior requirement that any certificates issued in hard copy under this section be “pocketsized.” This amendment is effective immediately and immediately allowed boaters to choose to carry digital CONs. We expect that this provision of the NDAA 2023 will represent potential cost savings to State and territorial governments that choose to issue digital CONs. This final rule harmonizes the current regulations with the amended statute and updates the regulations to reflect the use of digital versions of CONs.

*Administrative Procedure Act*

The Administrative Procedure Act (APA) requires generally that agencies provide advance public notice, seek public comment, and provide a 30-day delayed effective date.<sup>1</sup> An agency may issue a rule without first providing the opportunity for notice and comment if the agency finds that notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). Notice and comment procedures are unnecessary, for example, if Congress requires non-discretionary action of an agency, leaving it without discretion to vary its action in response to the views or suggestions of commenters. *See, e.g., Metzbaum v. Fed. Energy Regul. Comm’n.*, 675 F.2d 1282, 1284 (DCCir. 1982) (“[W]e find that the FERC order was appropriately issued without notice and comment as a nondiscretionary ministerial action.”).

The Coast Guard finds that good cause exists under 5 U.S.C. 553 to issue this final rule without notice and comment procedures. Section 11506 of the NDAA 2023 leaves the Coast Guard without discretion as it states that a CON “may be in hard copy or digital form.” Therefore, soliciting public comment on the decision to update the regulations to comport with the statutory mandate is unnecessary as acceptance of digital CONs has been taking place since 2022.

**III. Background**

Under section 888(a) of the Homeland Security Act of 2002 (Pub. L. 107–296), the Coast Guard has 11 statutory missions, including marine safety.

Accordingly, the Coast Guard is required to ensure safety on the nation’s waters through complementary programs of mishap prevention, search and rescue, and accident investigation. One of the many ways the Coast Guard accomplishes this marine safety mission is through its role as the coordinator of the National Recreational Boating Safety Program.

The mission of the National Recreational Boating Safety Program is to ensure that the public has a safe, secure, and enjoyable recreational boating experience by carrying out programs designed to minimize the loss of life, personal injury, and property damage, while cooperating with environmental and national security efforts. To achieve this mission, the Coast Guard’s Office of Auxiliary and Boating Safety (CG–BSX) works with Federal agencies; State and local governments; boat, engine, and associated equipment manufacturers; and non-governmental boating safety organizations to ensure that recreational boats are safely built and operated in a responsible manner.

The Coast Guard assigns boats CONs primarily for ownership verification. A CON contains the State registration information for the vessel, which allows a law enforcement officer to electronically access State-registered vessel databases and retrieve ownership and vessel information using the State-assigned number affixed to the vessel. Until 2017, all CONs issued by States to owners of recreational and State-numbered commercial vessels were issued as a paper or plastic card, measuring approximately 2½ inches by 3½ inches, per Coast Guard regulations in 33 CFR 174.25. In 2017, however, CG–BSX began allowing alternative sizing of CONs, so long as it could be folded to meet regulation size. Additionally, several States have moved to digital vehicle registration, and, in 2022, requested that the Coast Guard allow a digital, or electronically available, CON to meet the requirements of 33 CFR 173.25.

**IV. Discussion of the Rule**

The NDAA 2023 amended 46 U.S.C. 12304(a) to allow any CON for undocumented vessels to be in digital form, while retaining the requirement that any certificates issued in hard copy under this section be pocketsized. This final rule harmonizes the current regulations in 33 CFR parts 173 and 174 with the amendments made by the NDAA 2023.

The Coast Guard is amending 33 CFR 173.21(a) to specify that any CON can be in hard copy or digital form. The Coast

<sup>1</sup> 5 U.S.C. 553.

Guard is also amending 33 CFR 174.25 to allow vessels to carry any CON in a digital format, while also requiring that a hard copy be pocket-sized in place of the precise dimensions for a hard copy CON currently specified in the CFR.

## V. Regulatory Analyses

We developed this final rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

### A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review), as amended by Executive Order 14094 (Modernizing Regulatory Review), and 13563 (Improving Regulation and Regulatory Review) 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 (including potential economic,

environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) has not designated this final rule a significant regulatory action under section 3(f) of Executive Order 12866, as amended by Executive Order 14094. A regulatory analysis (RA) follows.

### Introduction

With this final rule, the Coast Guard intends to amend subchapter S (Boating Safety) of title 33 of the CFR. Specifically, the Coast Guard intends to amend §§ 173.21 and 174.25 to carry out the provision of NDAA 2023, codified at 46 U.S.C. 12304, allowing recreational vessel owners and operators to carry any CON in hard copy or digital form.

The Coast Guard has included in this RA an assessment of the impacts of both this final rule and the NDAA 2023

provision allowing for CONs to be carried in digital format. Since the NDAA 2023 was effective immediately, all the quantifiable economic impacts are attributable to the NDAA 2023 rather than this final rule. The Coast Guard estimates that the provision of NDAA 2023 allowing for CONs to be carried in digital format will save the regulated public and the governments of the U.S. States and territories approximately \$27 million in 2023 dollars over an 11-year period of analysis from 2023 through 2033, assuming a 2-percent discount rate. The 11-year period of analysis begins in 2023 to account for the NDAA 2023 and runs through 2033, which is 10 years after a final rule publication in 2024.

Table 1 presents an overview of both the NDAA 2023 and this final rule.

### Table 1—Baseline and Change Matrix

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Baseline	Pre-NDAA 2023	NDAA 2023	Final Rule
<b>Time Period</b>	Before December 23, 2022	December 23, 2022	July 5, 2024
<b>46 U.S.C. 12304(a)</b> (excerpt)	The certificate <del>shall be pocketsized</del> , shall be at all times available for inspection on the vessel for which issued when the vessel is in operation, and may be <u>in hard copy or digital form</u> . <u>Any certificate issued in hard copy under this section shall be pocketsized</u> . The certificate shall be valid for not more than 3 years.		
<b>33 CFR part 173 Authority Citation</b>		Authority: 31 U.S.C. 9701; 46 U.S.C. 2110, 6101, 12301, 12302; OMB Circular A-25; DHS Delegation No. 00170.1, Revision No. 01.24.	
<b>33 CFR 173.21(a)</b>		Except as provided in §§ 173.13 and 173.17, no person may operate a vessel to which this part applies unless it has on board <u>in hard copy or digital form</u> : *****	
<b>33 CFR 174.25</b>		Each certificate of number must be <del>approximately 2 1/2 by 3 1/2 inches in</del> <u>hard copy or digital form</u> . <u>Any certificate issued in hard copy under this section must be pocketsized</u> .	
<b>Description</b>	Congressional statute (46 U.S.C. 12304(a)) required CONs to be “pocketsized” and Federal regulation (33 CFR 174.25) required CONs to be “approximately 2 1/2 by 3 1/2 inches.”	In the NDAA 2023, Congress amended statute to allow for (but not require) digital CONs. This amendment is effective immediately and immediately allowed boaters to choose to carry digital CONs.	With this final rule, the Coast Guard is harmonizing Congressional statute and Federal regulation to allow for either pocketsized hard-copy CONs or digital CONs.
<b>Affected Population</b>	- U.S.-flagged recreational vessel owners and operators. - State and territorial governments.	- U.S.-flagged recreational vessel owners and operators. - State and territorial governments.	- U.S.-flagged recreational vessel owners and operators.
<b>Costs</b>	-	No costs to the regulated public or to State and	No costs to the regulated public or to State and

		territorial governments.	territorial governments.
<b>Cost Savings</b>	-	\$27 million (11-year, 2% discount rate) to State and territorial governments.  This equates to \$3 million in annualized cost savings.	No cost savings to the regulated public or to State and territorial governments.
<b>Benefits</b>	-	<i>Qualitative Benefits:</i>  - Greater regulatory flexibility for recreational vessel owners to comply with CON carriage requirements by allowing them to hold digital CONs instead of hard copy CONs.	<i>Qualitative Benefits:</i>  - Increased clarity from harmonizing regulations with statute.

Note: An underline (example) indicates text that has been added. A strikethrough (~~example~~) indicates text that has been removed.

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The rest of this RA is as follows: the next section discusses the affected population, cost, costs savings, and benefits of the relevant NDAA 2023 provision. The third section discusses the affected population, cost, costs savings, and benefits of this final rule. In the fourth and final section of this RA, we assess regulatory alternatives.

#### Economic Impact of the Relevant NDAA 2023 Provision

##### *Affected Population of the Relevant NDAA 2023 Provision*

The affected population for the relevant NDAA 2023 provision includes

all U.S. recreational boating vessel owners, as well as State and territorial governments.

As of 2022, there were 11,770,383 registered recreational vessels in the U.S., according to the Coast Guard's most recent recreational boating statistics report.<sup>2</sup> To estimate the total affected population over the 11-year

<sup>2</sup>Data come from table 36 of U.S. Coast Guard, 2022 Recreational Boating Statistics, obtained on June 26, 2023, <https://www.uscgboating.org/library/accident-statistics/Recreational-Boating-Statistics-2022.pdf>; accessed June 26, 2023. This version, published May 25, 2023, was the most recent version of the data available at the time of this writing.

period of analysis, the Coast Guard reviewed the registered recreational vessel count from 2017 to 2022. We found that the average year-to-year growth rate in recreational vessel registrations was approximately 0 percent (see table 2).<sup>3</sup> Therefore, we assume that the population of registered recreational vessels will not change for the duration of the period of analysis.

<sup>3</sup>Data come from table 36 of U.S. Coast Guard, 2022 Recreational Boating Statistics, obtained on June 26, 2023, <https://www.uscgboating.org/library/accident-statistics/Recreational-Boating-Statistics-2022.pdf>; accessed June 26, 2023.

TABLE 2—U.S.-REGISTERED RECREATIONAL VESSEL GROWTH FROM 2017 TO 2022

Year	Vessels registered	Growth rate
	(a)	(b) = [(a) ÷ (a) of prior year - 1] × 100 (%)
2017	11,961,568	
2018	11,852,969	- 0.91
2019	11,878,542	0.22
2020	11,838,188	- 0.34
2021	11,957,886	1.01
2022	11,770,383	- 1.57
Average	11,876,589	- 0.32

*Costs of the Relevant NDAA 2023 Provision*

The Coast Guard does not anticipate any costs from the relevant NDAA 2023 provision because this provides greater regulatory flexibility and does not impose a new prescriptive requirement.

*Cost Savings of the Relevant NDAA 2023 Provision*

The Coast Guard expects that the relevant amendment to 46 U.S.C. 12304 in the NDAA 2023 will result in cost savings for the governments of both U.S. States and territories. These cost savings come from avoiding the printing and mailing costs for hard copy CONs.

To estimate the cost savings, we first determine the expected number of CONs issued digitally<sup>4</sup> for each year,

either during initial registration of a recreational vessel or as a renewal of registration.<sup>5</sup> This calculation requires the following components:

- (1) The weighted-average period of validity for recreational vessel certificates across all U.S. States and territories;
- (2) The rate of smartphone use among the U.S. recreational boating population; and
- (3) The rate of digital CON use among smartphone-owning recreational vessel owners.

The Coast Guard expects that the period of validity will be the same regardless of whether a State or territory issues a hard copy CON or a digital CON. We assume that all governmental jurisdictions, which are responsible for

issuing certificates and enforcing regulatory requirements relating to certificates, will allow for both forms of certification.<sup>6</sup>

Based on a survey done by Coast Guard subject matter experts (SMEs) within CG-BSX, the Coast Guard determined that the average period of validity for certificates is 2.46 years, weighted by the share of the boating population in each jurisdiction.

Next, we calculated the total number of certificates, which we expect will be renewed each year, by dividing the vessel population of 11.77 million by the weighted average period of validity of 2.46 years. We obtained a value of 4.8 million vessels. This is shown in table 3.

TABLE 3—AVERAGE NUMBER OF CONs RENEWED ANNUALLY

Current number of registered recreational vessels	Average period of validity (years)	Average number of CONs renewed annually
(a)	(b)	(c) = (a) ÷ (b)
11,770,383	2.46	4,784,709

After obtaining the expected number of renewed certificates for each year, we multiplied that value by the recreational boating population’s smartphone-use rate to determine the average number of certificates that could be renewed digitally each year because the vessel

owner owns a smartphone. Using information from an online data platform on the use rate among the general U.S. population, we obtained an estimated smartphone use rate of 72.7 percent among the U.S. recreational boating population.<sup>7</sup><sup>8</sup> We hold this

smartphone-use rate constant throughout the period of analysis, since the rate of change for smartphone adoption has diminished significantly and has trended towards a 0-percent change in recent years (see table 4).<sup>9</sup>

<sup>4</sup> The Coast Guard expects that State and territorial governments will issue digital CONs and make them accessible to smartphone or tablet users through a downloadable licensing application or a mobile-friendly web page. We do acknowledge that jurisdictions may choose to issue digital CONs through other methods. For the purposes of this RA, the particular method by which jurisdictions issue digital CONs does not impact the cost savings calculations. Any digitally issued CON, regardless of issuance method, will result in cost savings from avoided printing and mailing costs.

<sup>5</sup> Since the growth rate of the registered recreational vessel population is 0 percent, we

assume that the number of new registrations is offset by the number of registered vessels that have not renewed certificates.

<sup>6</sup> “All governmental jurisdictions” refers to U.S. States and territories.

<sup>7</sup> Petroc Taylor, “Smartphone Penetration Rate as a Share of the Population in the United States from 2010 to 2021,” n.d., Statista, obtained on June 15, 2023, accessed on June 15, 2023, <https://www.statista.com/statistics/201183/forecast-of-smartphone-penetration-in-the-us/> (“Smartphone Penetration Data”).

<sup>8</sup> The Coast Guard does not have reason to believe that the U.S. recreational boating population is

significantly different from the general U.S. population regarding smartphone use.

<sup>9</sup> Smartphone Penetration Data, *supra* note 7. The online data platform used survey data from a market research firm that examined smartphone penetration rates from 2010 to 2018. The smartphone penetration rate is defined as the share of the U.S. population who own at least one smartphone and use the smartphone(s) at least once a month. Penetration rates for 2018 to 2021 are projections from analysts with the data platform, and not the Coast Guard.

TABLE 4—SMARTPHONE PENETRATION RATE FROM 2016 TO 2021

Year	Penetration rate	Growth rate
	(a) (%)	(b) = [(a) ÷ (a) of prior year - 1] × 100 (%)
2016	63.9	
2017	67.3	5.3
2018	69.6	3.4
2019	71.4	2.6
2020	72.2	1.1
2021	72.7	0.7

We estimated that an average number of 3.5 million CONs could be renewed digitally each year. However, not all vessel owners with smartphones will

use a digital CON. Coast Guard SMEs within CG–BSX estimated that the digital CON adoption rate will be around 50 percent. This means that 1.7

million CONs will likely be digitally renewed each year. This is shown in table 5, which uses data from table 3.

TABLE 5—AVERAGE ANNUAL NUMBER OF VESSELS RENEWING DIGITALLY

Average number of CONs renewed annually (c)	Smartphone penetration rate (d)	Avg number of CONs eligible for renewal digitally (e) = (c) × (d)	Digital CON adoption rate among smartphone-owning vessel owners (f)	Avg number of CONs renewed digitally (rounded up) (g) = (e) × (f)
4,784,709	72.7%	3,478,483	50%	1,739,242

State and territorial issuing authorities incur costs associated with printing and mailing hard copy CONs. According to Coast Guard SMEs within

CG–BSX, the average printing and mailing cost to issuing authorities is approximately \$1.50 per application. By avoiding printing and mailing replacement hard copy CONs, we expect

that State and territorial governments will save approximately \$2.6 million annually. This is shown in table 6, which uses data from table 5.

TABLE 6—ANNUAL UNDISCOUNTED COST SAVINGS TO STATE AND TERRITORIAL GOVERNMENTS

Avg number of CONs renewed digitally (g)	Hard copy CON printing and mailing cost (h)	Total saved (i) = (g) × (h)
1,739,242	\$1.50	\$2,608,863

We present the cost savings to State and territorial governments in table 7, using discount rates of 2 percent.

TABLE 7—COST SAVINGS TO STATE AND TERRITORIAL GOVERNMENTS

Year	Discounted (2%)	Undiscounted
1 (2023)	\$2,661,040	\$2,608,863
2 (2024)	2,608,863	2,608,863
3 (2025)	2,557,709	2,608,863
4 (2026)	2,507,558	2,608,863
5 (2027)	2,458,390	2,608,863
6 (2028)	2,410,186	2,608,863
7 (2029)	2,362,928	2,608,863
8 (2030)	2,316,596	2,608,863
9 (2031)	2,271,172	2,608,863
10 (2032)	2,226,39	2,608,863
11 (2033)	2,182,980	2,608,863
Total	26,564,061	28,697,493
Annualized	2,608,863	

*Qualitative Benefits of the Relevant NDAA 2023 Provision*

The provision of the NDAA 2023 allowing for digital CONs provides a qualitative benefit by allowing recreational vessel owners the flexibility of complying with CON carriage requirements with a digital CON instead of a hard copy CON.

*Economic Impact of the Final Rule*

*Affected Population of This Final Rule*

The affected population for this final rule includes all U.S. recreational boating vessel owners. As stated before, we assume that in 2022, there were 11,770,383 registered recreational vessels, and that the population of registered recreational vessels will not

change for the duration of the period of analysis.

*Costs of This Final Rule*

The Coast Guard does not anticipate any costs from this final rule.

*Cost Savings of This Final Rule*

The Coast Guard does not anticipate any cost savings from this final rule.

*Qualitative Benefits of This Final Rule*

This final rule provides one qualitative benefit by harmonizing the Coast Guard’s regulations with the relevant statutory authority.

*Alternatives*

As stated earlier in this preamble and the regulatory text, the NDAA 2023 is a legislatively mandated law promulgated by Congress. Hence, the Coast Guard

does not have any discretionary action upon its enactment. The Coast Guard is promulgating this final rule to ensure that CFR regulations are harmonized with the NDAA 2023. Therefore, no alternatives were considered for this rulemaking.

#### *B. Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, requires Federal agencies to consider the potential impact on small entities when they issue a rule after being required to first publish a general notice of proposed rulemaking. Under 5 U.S.C. 604(a), an agency must provide a regulatory flexibility analysis after being required to publish a general notice of proposed rulemaking under 5 U.S.C. 553. Because section 11506 of the NDAA 2023 provides the Coast Guard no discretion in accepting a digital CON, we are not required to publish a notice of a proposed rulemaking pursuant to 5 U.S.C. 553(b)(B). Accordingly, no regulatory flexibility analysis is required under 5 U.S.C. 604(a) and we did not conduct one for this rule.

#### *C. Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offer to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. If this final 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 in the **FOR FURTHER INFORMATION CONTACT** section of this final rule. 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.

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).

#### *D. Collection of Information*

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

#### *E. Federalism*

A rule has implications for federalism under Executive Order 13132 (Federalism) if it has a substantial direct effect on 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 final rule under Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis follows.

In accordance with 46 U.S.C. 12301 and 12304, an undocumented vessel, including a State-numbered commercial vessel, which is equipped with propulsion machinery and operating on waters subject to U.S. jurisdiction, must have on board a valid CON. Under 46 U.S.C. 12302, the Coast Guard is charged with issuing Federal regulations to create a standard numbering system for these vessels. As long as the States issue CONs that are consistent with the standard numbering system, the States are permitted to be the issuing authority. This final rule is consistent with this longstanding Federal-State vessel numbering mechanism established by Congress and, therefore, also with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

#### *F. Unfunded Mandates*

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. Although this final rule will not result in such expenditure and does not constitute a discretionary regulatory action, we do discuss the effects of this rule elsewhere in this preamble.

#### *G. Taking of Private Property*

This final rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

#### *H. Civil Justice Reform*

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

#### *I. Protection of Children*

We have analyzed this final rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This final rule is not an economically significant rule under Executive Order 12866, as amended by Executive Order 14094, and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### *J. Indian Tribal Governments*

This final rule does not have Tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), because it will 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.

#### *K. Energy Effects*

We have analyzed this final rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866, as amended by Executive Order 14094, and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

#### *L. Technical Standards*

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (for example, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This final rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### *M. Environment*

We have analyzed this final rule under DHS Management 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.

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. This final rule meets the criteria for categorical exclusions L57 in Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev 1. Categorical exclusion L57 pertains to regulations concerning manning, documentation, admeasurement, inspection, and equipping of vessels.

This final rule involves conforming current regulations to the amended statute and updating the regulations to allow digital versions of any CON. We seek any comments or information that may lead to the discovery of a significant environmental impact from this final rule.

**List of Subjects**

*33 CFR Part 173*

Marine safety, Reporting and recordkeeping requirements.

*33 CFR Part 174*

Intergovernmental relations, Marine safety, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 173 and 174 as follows:

**PART 173—VESSEL NUMBERING AND CASUALTY AND ACCIDENT REPORTING**

■ 1. The authority citation for part 173 is revised to read as follows:

**Authority:** 31 U.S.C. 9701; 46 U.S.C. 2110, 6101, 12301, 12302; OMB Circular A–25; DHS Delegation No. 00170.1, Revision No. 01.4.

■ 2. Amend § 173.21 by revising paragraph (a) introductory text to read as follows:

**§ 173.21 Certificate of number required.**

(a) Except as provided in §§ 173.13 and 173.17, no person may operate a vessel to which this part applies unless they have on board in hard copy or digital form:

\* \* \* \* \*

**PART 174—STATE NUMBERING AND CASUALTY REPORTING SYSTEMS**

■ 3. The authority citation for part 174 is revised to read as follows:

**Authority:** 46 U.S.C. 6101 and 12302; DHS Delegation No. 00170.1, Revision No. 01.4.

■ 4. Revise § 174.25 to read as follows:

**§ 174.25 Size of certificate of number.**

Each certificate of number must be in hard copy or digital form. Any certificate issued in hard copy under this section must be pocket-sized.

Dated: May 29, 2024.

**W.R. Arguin,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Prevention Policy.*

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**DEPARTMENT OF DEFENSE**

**Department of the Army, Corps of Engineers**

**33 CFR Parts 207 and 326**

**RIN 0710–AB54**

**Civil Monetary Penalty Inflation Adjustment Rule**

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Army Corps of Engineers (Corps) is issuing this final rule to adjust its civil monetary penalties (CMP) under the Rivers and Harbors Appropriation Act of 1922 (RHA), the Clean Water Act (CWA), and the National Fishing Enhancement Act (NFEA) to account for inflation.

**DATES:** This final rule is effective on June 4, 2024.

**FOR FURTHER INFORMATION CONTACT:** For the RHA portion, please contact Mr.

Joseph R. Wilson, 202–761–7697 or by email at [joseph.r.wilson@usace.army.mil](mailto:joseph.r.wilson@usace.army.mil), or for the CWA and NFEA portion, please contact Mr. Matt Wilson 202–761–5856 or by email at [Matthew.S.Wilson@usace.army.mil](mailto:Matthew.S.Wilson@usace.army.mil) or access the Corps Regulatory Home Page at <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/>.

**SUPPLEMENTARY INFORMATION:** The Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, codified at 28 U.S.C. 2461, note, as amended, requires agencies to annually adjust the level of CMP for inflation to improve their effectiveness and maintain their deterrent effect, as required by the Federal Civil Penalties Adjustment Act Improvements Act of 2015, Public Law 114–74, sec. 701, November 2, 2015 (“Inflation Adjustment Act”).

With this rule, the new statutory maximum penalty levels listed in Table 1 will apply to all statutory civil penalties assessed on or after the effective date of this rule. Table 1 shows the calculation of the 2024 annual inflation adjustment based on the guidance provided by the Office of Management and Budget (OMB) (see December 19, 2023, Memorandum for the Heads of Executive Departments and Agencies, Subject: Implementation of Penalty Inflation Adjustments for 2024, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015). The OMB provided to agencies the cost-of-living adjustment multiplier for 2024, based on the Consumer Price Index for All Urban Consumers (CPI-U) for the month of October 2023, not seasonally adjusted, which is 1.03241. Agencies are to adjust “the maximum civil monetary penalty or the range of minimum and maximum civil monetary penalties, as applicable, for each civil monetary penalty by the cost-of-living adjustment.” For 2024, agencies multiply each applicable penalty by the multiplier, 1.03241, and round to the nearest dollar. The multiplier should be applied to the most recent penalty amount, *i.e.*, the one that includes the 2023 annual inflation adjustment.

TABLE 1

Citation	Civil Monetary Penalty (CMP) amount established by law	2023 CMP amount in effect prior to this rulemaking	2024 Inflation adjustment multiplier	CMP amount as of June 4, 2024
Rivers and Harbors Act of 1922 (33 U.S.C. 555).	\$2,500 per violation .....	\$6,756 per violation .....	1.03241	\$6,975 per violation.
CWA, 33 U.S.C. 1319(g)(2)(A) .....	\$10,000 per violation, with a maximum of \$25,000.	\$25,848 per violation, with a maximum of \$64,619.	1.03241	\$26,686 per violation, with a maximum of \$66,713.