

(iii) Based on the Guidelines contained in appendix A to part 501 of this chapter, concludes that an administrative response is warranted but that a civil monetary penalty is not the most appropriate response.

(2) An initial Finding of Violation shall be in writing and may be issued whether or not another agency has taken any action with respect to the matter. For additional details concerning issuance of a Finding of Violation, see appendix A to part 501 of this chapter.

(b) *Response*—(1) *Right to respond*. An alleged violator has the right to contest an initial Finding of Violation by providing a written response to OFAC.

(2) *Deadline for response; Default determination*. A response to an initial Finding of Violation must be made within 30 days as set forth in paragraphs (b)(2)(i) and (ii) of this section. The failure to submit a response within 30 days shall be deemed to be a waiver of the right to respond, and the initial Finding of Violation will become final and will constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

(i) *Computation of time for response*. A response to an initial Finding of Violation must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier), or dated if sent by email, on or before the 30th day after the postmark date on the envelope in which the initial Finding of Violation was served or date the Finding of Violation was sent by email. If the initial Finding of Violation was personally delivered by a non-U.S. Postal Service agent authorized by OFAC, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response*. If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of OFAC, only upon specific request to OFAC.

(3) *Form and method of response*. A response to an initial Finding of Violation need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof (electronic signature is acceptable), contain information sufficient to indicate that it is in response to the initial Finding of Violation, and include the OFAC identification number listed on the initial Finding of Violation. The response must be sent to OFAC's Office

of Compliance and Enforcement by mail or courier or email and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(4) *Information that should be included in response*. Any response should set forth in detail why the alleged violator either believes that a violation of the regulations did not occur and/or why a Finding of Violation is otherwise unwarranted under the circumstances, with reference to the General Factors Affecting Administrative Action set forth in the Guidelines contained in appendix A to part 501 of this chapter. The response should include all documentary or other evidence available to the alleged violator that supports the arguments set forth in the response. OFAC will consider all relevant materials submitted in the response.

(c) *Determination*—(1) *Determination that a Finding of Violation is warranted*. If, after considering the response, OFAC determines that a final Finding of Violation should be issued, OFAC will issue a final Finding of Violation that will inform the violator of its decision. A final Finding of Violation shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

(2) *Determination that a Finding of Violation is not warranted*. If, after considering the response, OFAC determines a Finding of Violation is not warranted, then OFAC will inform the alleged violator of its decision not to issue a final Finding of Violation.

**Note 1 to paragraph (c)(2)**. A determination by OFAC that a final Finding of Violation is not warranted does not preclude OFAC from pursuing other enforcement actions consistent with the Guidelines contained in appendix A to part 501 of this chapter.

(d) *Representation*. A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with OFAC prior to a written submission regarding the specific alleged violations contained in the initial Finding of Violation must be preceded by a written letter of representation, unless the initial Finding of Violation was served upon the alleged violator in care of the representative.

## Subpart H—Procedures

### § 590.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions;

rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

### § 590.802 Delegation of certain authorities of the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to E.O. 13581 of July 24, 2011, as amended by E.O. 13863 of March 15, 2019, and any further Executive orders relating to the national emergency declared in E.O. 13581, may be taken by the Director of OFAC or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

## Subpart I—Paperwork Reduction Act

### § 590.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures, and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

**Andrea M. Gacki,**

*Director, Office of Foreign Assets Control.*

[FR Doc. 2022–01072 Filed 1–20–22; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Parts 1, 6, 62, 151, 160, and 173

### 46 CFR Parts 4, 5, 7, 11, 13, 15, 31, 67, 71, 91, 107, 126, 144, 147, 172, and 189

[Docket No. USCG–2021–0348]

### Navigation and Navigable Waters, and Shipping; Technical, Organizational, and Conforming Amendments

**AGENCY:** Coast Guard, Department of Homeland Security (DHS).

**ACTION:** Final rule.

**SUMMARY:** This final rule makes non-substantive technical, organizational, and conforming amendments to existing Coast Guard regulations. This rule is a continuation of our practice of periodically issuing rules to keep our regulations up-to-date and accurate.

This rule will have no substantive effect on the regulated public.

**DATES:** This final rule is effective January 21, 2022.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2021–0348 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

**FOR FURTHER INFORMATION CONTACT:** For information about this document call or email Victoria Phoenix, Coast Guard; telephone 202–372–3744, email [victoria.phoenix@uscg.mil](mailto:victoria.phoenix@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**Table of Contents for Preamble**

- I. Abbreviations
- II. Regulatory History
- III Basis and Purpose
- IV. Discussion of the Rule
- V. Regulatory Analyses
  - A. Regulatory Planning and Review
  - B. Small Entities
  - C. Assistance for Small Entities
  - D. Collection of Information
  - E. Federalism
  - F. Unfunded Mandates
  - G. Taking of Private Property
  - H. Civil Justice Reform
  - I. Protection of Children
  - J. Indian Tribal Governments
  - K. Energy Effects
  - L. Technical Standards
  - M. Environment

**I. Abbreviations**

AIS Automatic Identification System  
 AtoN Aids to Navigation  
 Authorization Act Frank LoBiondo Coast Guard Authorization Act of 2018  
 CFR Code of Federal Regulations  
 COMDTINST Commandant Instruction  
 DHS Department of Homeland Security  
 FR Federal Register  
 GRT Gross Register Tonnage  
 GT Gross Tonnage  
 ICGB International Cargo Gear Bureau  
 IMO International Maritime Organization  
 NCB National Cargo Bureau  
 NOV Notice of Violation  
 NVDC National Vessel Documentation Center  
 OMB Office of Management and Budget  
 RO Code Code for Recognized Organizations  
 § Section  
 S&R NCOE Suspension and Revocation National Center of Expertise  
 SNPRM Supplemental notice of public rulemaking  
 STCW final rule Implementation of the Amendments to the International

Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978, and Changes to National Endorsements final rule (78 FR 77796, December 24, 2013)  
 U.S.C. United States Code

**II. Regulatory History**

We did not publish a notice of proposed rulemaking for this rule. Under Title 5 of the United States Code (U.S.C.), Section 553(b)(A), the Coast Guard finds that this final rule is exempt from notice and public comment rulemaking requirements because these changes involve rules of agency organization, procedure, or practice. In addition, the Coast Guard finds that notice and comment procedures are unnecessary for this final rule under 5 U.S.C. 553(b)(B), as this rule consists of only technical and editorial corrections and these changes will have no substantive effect on the public. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that, for the same reasons, good cause exists for making this final rule effective upon publication in the **Federal Register**.

**III. Basis and Purpose**

This final rule, which becomes effective on January 21, 2022, makes technical and editorial corrections throughout titles 33 and 46 of the Code of Federal Regulations (CFR). These changes are necessary to update authority citations, correct errors, update contact information, and make other non-substantive amendments that improve the clarity of the CFR. This rule does not create or change any substantive requirements.

This final rule is issued under the authority of 5 U.S.C. 552(a), 14 U.S.C. 102 and 503; the Department of Homeland Security’s (DHS) DHS Delegation No. 00170.1, Revision No. 01.2; and authorities listed at the end of this rule for each CFR part this rule amends.

**IV. Discussion of the Rule**

The Coast Guard periodically issues technical, organizational, and conforming amendments to existing regulations in titles 33 and 46 of the CFR. These technical amendments provide the public with accurate and current regulatory information, but do not change the effect of any Coast Guard regulations on the public.

**A. Authority Citation Updates**

This rule updates the authority citations in 33 CFR parts 6, 62, 151, 160, and 173, and 46 CFR parts 4, 5, 7, 11, 13, 15, 31, 67, 71, 91, 107, 126, 144, 147, 172, and 189. On December 4, 2018,

Congress enacted the Frank LoBiondo Coast Guard Authorization Act of 2018 (Authorization Act), Public Law 115–282, 132 Stat. 4192. The Authorization Act redesignated multiple provisions within Titles 14, 33, 46, and 50 of the U.S. Code (U.S.C.), without substantive change, in an effort to reorganize these titles. The Coast Guard often uses the affected statutory provisions as authority for issuing regulations related to maritime safety and security. This rule updates statutory authority citations that were inadvertently omitted from updating when the Coast Guard redesignated statutory authorities throughout titles 33 and 46 of the CFR in response to the Authorization Act (85 FR 58268, Sept. 18, 2020).

This rule also corrects errors in the authority citations for 33 CFR part 160 and 46 CFR part 67. The updates will correct the omission in 33 CFR part 160 of the word “Chapter” when referring to authority deriving from Title 46 U.S.C Chapter 701 (46 U.S.C. 70101–70132). Also, we are moving the reference to “46 U.S.C. 70011” in the first sentence of the part 160 citation to the second sentence, where it was meant to replace “33 U.S.C. 1225,” which previously appeared in the second sentence. The second sentence listed additional authorities for subpart C of part 160. For 46 CFR part 67, we are correcting a reference to “4 U.S.C. 664” that was intended to reference 14 U.S.C. 664.

Finally, this rule updates the authority citations in 33 CFR subpart 1.07, 33 CFR parts 62, 151, 160, and 173, and 46 CFR parts 4, 5, 7, 11, 13, 15, 31, 67, 71, 91, 107, 126, 144, 147, 172, and 189 to reflect the adoption of Revision No. 01.2 for DHS Delegation 00170.1 and to use the preferred terminology for this delegation.

**B. Technical Amendments to Title 33 of the CFR**

In § 1.07–5(c), this rule amends the definition of “issuing officer” by adding qualified civilians to the list of Coast Guard personnel who may issue a notice of violation (NOV). Previously, the definition only provided that Coast Guard commissioned, warrant, or petty officers could issue NOVs. These officers do investigate potential violations; however, an increasing number of investigating officers are civilian employees of the Coast Guard. These civilians have the same training and apply the same policies as uniformed issuing officers. Adding qualified civilians to the definition of “issuing officer” will not change the frequency or type of NOV issued. Revising the CFR to add qualified civilians is a matter of agency

management and personnel as described in 5 U.S.C. 553(a)(2). It is therefore exempt from 5 U.S.C. 553 procedures, and requires no prior notice or opportunity for public comment and no delay of effective date.

In § 6.04–1, this rule adds new paragraph (d) to direct readers to the appeal mechanism for decisions and actions by a Captain of the Port in 33 CFR 160.7. This provision does not modify the appeal mechanism in any way, but is intended as a convenience for readers who may not expect the appeals process for 33 CFR part 6 actions to be located in 33 CFR 160.7.

In § 62.52(b), this rule updates the reference to “real” Automatic Identification System (AIS) Aids to Navigation (AtoN) “physically fitted to the AtoN” to a “physical” AIS “fitted to the AtoN,” in keeping with an internationally agreed upon lexicon change.

In § 151.66(c)(3)(iv), this rule removes the entire paragraph governing keeping records and reporting of the discharge of bulk dry cargo residue on the Great Lakes using Coast Guard Form CG–33. The requirement to use Form CG–33 and submit quarterly reports to the Coast Guard expired on February 28, 2015, but unclear wording caused confusion and unnecessary reporting burdens on Great Lakes vessel owners and operators. There is no longer a requirement to use this specific form or submit it to the Coast Guard, but the recordkeeping requirement remains in force. The Coast Guard’s Office of Operating and Environmental Standards has published a Maritime Commons blog post and worked with the Coast Guard’s Ninth District to remind U.S. and Canadian vessel owners to communicate this to their employees. This rule also redesignates existing § 151.66(c)(3)(v) as § 151.66(c)(3)(iv), and amends it to remove the reference to Form CG–33. The required record may be in any written format.

In § 173.57, this rule removes paragraph (b) governing the required content of a casualty report filed prior to January 1, 2017, as that date has passed and the paragraph is no longer relevant. Additionally, we have removed the January 1, 2017, date from the existing paragraph (c) and redesignated that paragraph as paragraph (b).

#### *C. Technical Amendments to Title 46 of the CFR*

In § 4.40–5(d)(3), this rule revises the definition of “major marine casualty” to apply to property damage initially estimated at \$2,000,000 or more, rather than \$500,000 as provided in the

current regulations. This new language reflects Section 211 of the Save Our Seas Act of 2018 (Pub. L. 115–265, 132 Stat. 3742), which amended section 6101(i)(3) of Title 46, U.S.C., to increase the dollar amount for property damage to qualify a casualty involving a vessel as a “major marine casualty” from \$500,000 to \$2,000,000.

In § 5.713(b), this rule amends the mailing address for appeals to the National Transportation Safety Board to allow appeal briefs and communications to be sent directly to the Suspension and Revocation National Center of Expertise (S&R NCOE) office located in Martinsburg, West Virginia. The address change will not impact the designation of the Chief Counsel of the Coast Guard as the Commandant’s representative in these matters. In accordance with Coast Guard policy, the Chief Counsel has attorneys detailed to the S&R NCOE office in Martinsburg, West Virginia office as primary contacts for suspension and revocation appellate matters. Changing the address to the Martinsburg, West Virginia office will ensure all written and electronic correspondence is received in a timely manner.

In § 7.30, this rule reflects the disestablishment of Ambrose Light and the conversion of Highlands Light to a Private Aid. Additionally, this rule provides specific coordinates and (where applicable) Light List Numbers for East Rockaway Inlet Breakwater Light, the former Ambrose Light, and Highlands Light.

In § 11.410(c), this rule corrects an error introduced in the 2013 Implementation of the Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978, and Changes to National Endorsements final rule (78 FR 77796, December 24, 2013) (STCW final rule) to limiting an officer’s endorsement obtained with an orally assisted examination to vessels of 200 gross register tonnage (GRT), rather than 500 GRT as currently indicated in paragraph (c). The Coast Guard’s intent can be clearly seen in current § 11.201(j)(i), which provides that “any applicant for a deck or engineer officer endorsement limited to vessels less than 200 GRT, or an officer endorsement limited to uninspected fishing industry vessels, may request an orally assisted examination instead of any written or other textual examination.” Conforming § 11.401(c) with § 11.201(j)(i) will eliminate any confusion with the endorsements.

In § 11.711(c), this rule replaces references to required pilot experience on vessels of 1,600 GRT or 3,000 “gross

tonnage” (GT) with reference to 1,600 “gross register tonnage” (GRT) only. In the STCW final rule, the Coast Guard adopted the convention that it would use GRT when discussing national endorsements and GT when discussing Standards of Training, Certification, and Watchkeeping for Seafarers endorsements. In the Correcting Amendments to the STCW final rule, the Coast Guard decided to revert to the prior text of the 2013 rule, but omitted the convention of solely using GRT for national endorsements and reverted to the prior text without editing the tonnage to 1,600 GRT. As a result, the requirement for GRT remained, causing confusion in the industry. This change conforms paragraph (c), which refers to not having sufficient experience, with paragraphs (a), (b), and (d), which all use 1,600 GRT as the standard to determine whether the applicant has sufficient experience.

In §§ 13.201(c)(3), 13.301(c)(3), 13.401(d), and 13.501(c)(3), this rule changes references to Table 1 to § 13.121(g) to the correct reference of Table 3 to § 13.121(e). In the 2013 STCW final rule, § 13.121 was revised, and what had been Table 13.121(g) (“Course topics” for firefighting) was renamed Table 3 to § 13.121(e). While in that same final rule, §§ 13.201(c)(3), 13.301(c)(3), 13.401(d), and 13.501(c)(3), all referenced “Table 1 to § 13.121(g),” when identifying an approved firefighting course, § 13.121(e)(1) and (3) make clear that “course curricula for firefighting courses must consist of the topics identified in Table 3 to § 13.121(e),” and that Table 1 to § 13.121(e) consists of course curricula topics for Tankship Familiarization.

In § 15.105(f), this rule corrects the cross-references defining the terms “fishing vessel” and “fish-tender vessel” from 46 U.S.C. 2101(11)(a) and (11)(c) to 46 U.S.C. 2101(12) and (14), respectively.

In § 15.812(e)(2), this rule corrects an error in the tables for the 2013 STCW final rule indicating that a Master, Mate, or Mate (Pilot) could serve as a pilot of a tank barge of greater than 10,000 GRT/GT, authorized to proceed beyond the Boundary Line or operate on the Great Lakes and on a route where a First Class Pilot’s license or MMC officer endorsement is required. This is only true for tank barges of less than 10,000 GRT/GT; only individuals with an endorsement as First Class Pilot may pilot tank barges greater than 10,000 GRT/GT under such circumstances. The entry in Table 1 to § 15.812(e)(2) to the contrary is the result of a printing error; the Coast Guard’s intent in this matter can be seen in current § 15.812(b)(3),

which contains the correct requirements. Furthermore, this provision did not appear in the supplemental notice of proposed rulemaking<sup>1</sup> (SNPRM) that preceded the STCW final rule, nor was it discussed as a difference between the SNPRM and the final rule in the STCW final rule’s table of changes.<sup>2</sup>

In § 31.10–16(e)(1), this rule updates the address for the National Cargo Bureau (NCB), as the organization relocated its New York offices.

In § 31.10–16(e)(2), this rule updates the address for the International Cargo Gear Bureau (ICGB), as the organization relocated its New York offices.

In § 71.30–10(a), this rule updates language referring to a Coast Guard inspector as “he.” Other regulations referencing Coast Guard inspectors have already been updated or were written with “he or she.”

In § 71.65–1(c), this rule updates the address for the ICGB, as the organization relocated its New York offices.

In §§ 91.25–50(a) and 91.27–15(a), this rule updates language referring to a Coast Guard inspector as “he.” Other regulations referencing Coast Guard inspectors have already been updated or were written with “he or she.”

In § 107.317(d), this rule updates the address for the ICGB, as the organization relocated its New York offices.

In § 126.100, this rule updates language referring to a Coast Guard inspector as “he.” Other regulations referencing Coast Guard inspectors have already been updated or were written with “he or she.”

In § 144.105, this rule removes an erroneous reference to the applicability of a nonexistent § 144.910 to the construction of new towing vessels, resulting from an editorial error in the 2016 Inspection of Towing Vessels final rule (81 FR 40101, June 20, 2016). In an earlier in-house draft of that rule, there were two sections addressing operating station visibility (§ 144.905 for existing

vessels, and § 144.910 for new vessels). Since both sections had paragraphs that were nearly identical, the rule drafters merged the requirements into § 144.905 for the final rule, but overlooked the mention of § 144.910 in this section. There is no need to add a new reference to this section, since the requirements for new vessels are specifically identified in § 144.905(d) and (e).

In §§ 147.5 and 147.40, this rule changes references in the section titles from “Commandant (CG–OES)” to “Commandant (CG–ENG)” to match the contact information given in these sections.

In § 172.040(b), this rule updates the address for the NCB, as the organization relocated its New York offices.

In § 189.25–50(a), this rule updates language referring to a Coast Guard inspector as “he.” Other regulations referencing Coast Guard inspectors have already been updated or were written with “he or she.”

**V. Regulatory Analyses**

We developed this 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) 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. Two

additional Executive orders were recently published to promote the goals of Executive Order 13563: Executive Order 13609 (Promoting International Regulatory Cooperation) and Executive Order 13610 (Identifying and Reducing Regulatory Burdens). Executive Order 13609 targets international regulatory cooperation to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. Executive Order 13610 aims to modernize the regulatory systems and to reduce unjustified regulatory burdens and costs on the public.

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. A regulatory analysis follows.

This rule involves non-substantive technical amendments and internal agency practices and procedures; it will not impose any additional costs. The technical amendments in this rule fit into categories that involve (1) correcting inadvertent typographical errors in the CFR; (2) modifying existing language in the CFR by addition or subtraction to improve the readability or clarity of regulations; (3) removing irrelevant information, such as expired regulatory provisions or cancelled reference material, and replacing outdated regulatory information with current information where applicable; and (4) revising office contact information and mailing addresses. The Coast Guard does not expect that there will be any additional costs conferred on the public or the Federal Government because none of the technical and editorial changes included in this rule will change existing regulatory requirements. A summary of these amendments by category and by CFR title and section are presented below in table 1.

TABLE 1—SUMMARY OF REGULATORY CHANGES BY CFR TITLE AND SECTION

Title	Section	Description of changes	Economic impact
46 .....	§§ 4.40–5(d)(3), 11.410(c), 13.201(c)(3), 13.301(c)(3), 13.401(d), 13.501(c)(3), 15.105(f), 15.812(e)(2), part 67,* and 144.105.	Improves the accuracy of regulatory information by correcting erroneous information.	Corrects various typographical errors.
33 .....	§§ 1.07–5(c), 6.04–1, 62.52(b), and part 160*.	Adds clarifying language and removes redundant, confusing, or incorrect language.	Improves readability and clarity of regulations.
46 .....	§§ 7.30, 11.711(c), 71.30–10(a), 91.25–50(a), 91.27–15(a), 126.100, and 189.25–50(a).		

<sup>1</sup> 76 FR 45907 (August 1, 2011).

<sup>2</sup> The Coast Guard did make an amendment to § 15.812 in the STCW final rule that was not contemplated in the SNPRM, but only to clarify, in

response to public comment, that an annual physical examination is required for a pilot only if serving on a vessel greater than 1,600 GRT.

TABLE 1—SUMMARY OF REGULATORY CHANGES BY CFR TITLE AND SECTION—Continued

Title	Section	Description of changes	Economic impact
33 .....	§§ 151.66(c)(3)(iv) and 173.57(b) and (c) introductory text.	Removes or replaces expired or cancelled references or provisions.	Improves readability by removing or replacing irrelevant information.
46 .....	§§ 5.713(b), 31.10–16(e)(1) and (2), 71.65–1(c), 107.317(d), 147.5 section heading, 147.40, and 172.040(b).	Updates office contact information or mailing addresses.	Improves the accuracy of regulatory information through administrative changes.

\* 46 CFR part 67 and 33 CFR part 160 contain editorial errors in the authority citation. This rule resolves these errors.

The unquantified benefits of the non-substantive technical amendments are increased accuracy of regulatory information by correcting erroneous information, improved readability and clarity of regulations by removing redundant or confusing language and by removing expired or cancelled provisions that are no longer relevant. In addition, the correction of technical items such as office mailing addresses and location coordinates will improve the accuracy of regulatory information and the ability to reference and contact the correct entities.

#### B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this rule would have a significant economic impact on a substantial number of small entities. 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.

This rule is not preceded by a notice of proposed rulemaking. The Regulatory Flexibility Act does not apply when notice and comment rulemaking is not required. Therefore, this rule is exempt from the requirements of the Regulatory Flexibility Act. This rule consists of technical, organizational, and conforming amendments and does not have any substantive effect on the regulated industry or small businesses.

#### 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 rule so that they can better evaluate its effects on them and participate in the rulemaking. 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.

#### 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 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.

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

#### G. Taking of Private Property

This 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 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 rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### J. Indian Tribal Governments

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

#### M. Environment

We have analyzed this rule under Department of Homeland Security 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 made a 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. 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 rule is categorically excluded under paragraphs A3 and L54 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. Paragraph A3 pertains to the promulgation of rules, issuance of rulings or interpretations, and the development and publication of policies, orders, directives, notices, procedures, manuals, advisory circulars, and other guidance documents of the following nature: (a) Those of a strictly administrative or procedural nature; (b) those that implement, without substantive change, statutory or regulatory requirements; (c) those that implement, without substantive change, procedures, manuals, and other guidance documents; and (d) those that interpret or amend an existing regulation without changing its environmental effect. Paragraph L54 pertains to regulations which are editorial or procedural. This final rule involves non-substantive technical, organizational, and conforming amendments to existing Coast Guard regulations.

#### List of Subjects

##### 33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

##### 33 CFR Part 6

Harbors, Security measures, Vessels.

##### 33 CFR Part 62

Navigation (water).

##### 33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

##### 33 CFR Part 160

Administrative practice and procedure, Harbors, Hazardous materials transportation, Marine safety, Navigation (water), Personally identifiable information, Reporting and recordkeeping requirements, Seamen, Vessels, Waterways.

##### 33 CFR Part 173

Marine safety, Reporting and recordkeeping requirements.

##### 46 CFR Part 4

Administrative practice and procedure, Drug testing, Investigations, Marine safety, National Transportation Safety Board, Nuclear vessels, Radiation protection, Reporting and recordkeeping requirements, Safety, Transportation.

##### 46 CFR Part 5

Administrative practice and procedure, Alcohol abuse, Drug abuse, Investigations, Seamen.

##### 46 CFR Part 7

Law enforcement, Vessels.

##### 46 CFR Part 11

Penalties, Reporting and recordkeeping requirements, Schools, Seamen.

##### 46 CFR Part 13

Cargo vessels, Reporting and recordkeeping requirements, Seamen.

##### 46 CFR Part 15

Reporting and recordkeeping requirements, Seamen, Vessels.

##### 46 CFR Part 31

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

##### 46 CFR Part 67

Reporting and recordkeeping requirements, Vessels.

##### 46 CFR Part 71

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

##### 46 CFR Part 91

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

##### 46 CFR Part 107

Marine safety, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

##### 46 CFR Part 126

Cargo Vessels, Marine safety, Reporting and recordkeeping requirements.

##### 46 CFR Part 144

Cargo vessels, Incorporation by reference, Marine safety, Oil and gas exploration, Passenger vessels, Reporting and recordkeeping requirements, Towing vessels.

##### 46 CFR Part 147

Hazardous materials transportation, Labeling, Marine safety, Packaging and containers, Reporting and recordkeeping requirements.

##### 46 CFR Part 172

Cargo vessels, Hazardous materials transportation, Marine safety.

##### 46 CFR Part 189

Marine safety, Oceanographic research vessels, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 1, 6, 62, 151, 160, and 173 and 46 CFR parts 4, 5, 7, 11, 13, 15, 31, 67, 71, 91, 107, 126, 144, 147, 172, and 189 as follows:

### Title 33—Navigation and Navigable Waters

#### PART 1—GENERAL PROVISIONS

##### Subpart 1.07—Enforcement; Civil and Criminal Penalty Proceedings

- 1. Revise the authority citation for part 1, subpart 1.07, to read as follows:

**Authority:** 14 U.S.C. 503; 14 U.S.C. 501; 33 U.S.C. 1321(b)(6)(B); 46 U.S.C. 2103; DHS Delegation 00170.1, Revision No. 01.2.

##### § 1.07–5 [Amended]

- 2. In § 1.07–5(c), remove the text “petty officer.” and add, in its place, the text “petty officer, or qualified civilian.”.

#### PART 6—PROTECTION AND SECURITY OF VESSELS, HARBORS, AND WATERFRONT FACILITIES

- 3. The authority citation for part 6 continues to read as follows:

**Authority:** 40 Stat. 220, as amended; 50 U.S.C. 70051.

- 4. In § 6.04–1, add paragraph (d) to read as follows:

##### § 6.04–1 Enforcement.

\* \* \* \* \*

(d) Actions taken and decisions made under this part can be appealed through the procedures outlined in 33 CFR 160.7.

#### PART 62—UNITED STATES AIDS TO NAVIGATION SYSTEM

- 5. Revise the authority citation for part 62 to read as follows:

**Authority:** 14 U.S.C. 544; 43 U.S.C. 1333; 46 U.S.C. 70031, 70041; DHS Delegation 00170.1, Revision No. 01.2.

**§ 62.52 [Amended]**

■ 6. In § 62.52(b), remove the text “real (physically)” and add, in its place, the text “physical”.

**PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER**

■ 7. Revise the authority citation for part 151 to read as follows:

**Authority:** 33 U.S.C. 1902, 1903, 1908; 46 U.S.C. 6101; 46 U.S.C. 70034; Pub. L. 104–227, 110 Stat. 3034; sec. 623, Pub. L. 108–293, 118 Stat. 1063; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; DHS Delegation 00170.1, Revision No. 01.2, paragraph (II)(77).

**§ 151.66 [Amended]**

■ 8. Amend § 151.66 as follows:

- a. Remove paragraph (c)(3)(iv);
- b. Redesignate paragraph (c)(3)(v) as paragraph (c)(3)(iv); and
- c. In newly redesignated paragraph (c)(3)(iv):
  - i. Remove the first sentence; and
  - ii. Remove “However, records must still” and add, in its place, the words “Records must”.

**PART 160—PORTS AND WATERWAYS SAFETY—GENERAL**

■ 9. Revise the authority citation for part 160 to read as follows:

**Authority:** 46 U.S.C. 70001–70003, 70034, and Chapter 701; DHS Delegation 00170.1, Revision No. 01.2. Subpart C is also issued under the authority of 46 U.S.C. 3715 and 46 U.S.C. 70011.

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

■ 10. Revise the authority citation for part 173 to read as follows:

**Authority:** 31 U.S.C. 9701; 46 U.S.C. 2110, 6101, 12301, 12302; OMB Circular A–25; DHS Delegation 00170.1, Revision No. 01.2.

**§ 173.57 [Amended]**

- 11. Amend § 173.57 as follows:
  - a. Remove paragraph (b);
  - b. Redesignate paragraph (c) as paragraph (b); and
  - c. In the introductory text of newly redesignated paragraph (b), remove the text “As of January 1, 2017, each” and add, in its place, the word “Each”.

**Title 46—Shipping****PART 4—MARINE CASUALTIES AND INVESTIGATIONS**

■ 12. Revise the authority citation for part 4 to read as follows:

**Authority:** 43 U.S.C. 1333; 46 U.S.C. 2103, 2303A, 2306, 6101, 6301, 6305, 70034; 50 U.S.C. 198; DHS Delegation 00170.1, Revision No. 01.2. Subpart 4.40 issued under 49 U.S.C. 1903(a)(1)(E).

**§ 4.40–5 [Amended]**

■ 13. In § 4.40–5(d)(3), remove the text “\$500,000” and add, in its place, the text “\$2,000,000”.

**PART 5—MARINE INVESTIGATION REGULATIONS—PERSONNEL ACTION**

■ 14. Revise the authority citation for part 5 to read as follows:

**Authority:** 46 U.S.C. 2103, 7101, 7301, 7701; DHS Delegation 00170.1, Revision No. 01.2.

**§ 5.713 [Amended]**

■ 15. Amend § 5.713(b) by removing the text “Commandant (CG–094), Attn: Judge Advocate General (JAG) and Chief Counsel, U.S. Coast Guard Stop 7213, 2703 Martin Luther King Jr. Avenue SE, Washington, DC 20593–7213” and adding, in its place, the text “Suspension and Revocation National Center of Expertise (S&R NCOE): by mail to U.S. Coast Guard National Maritime Center, S&R National Center of Expertise, 100 Forbes Drive, Martinsburg, WV 25404–7213 or electronically to *SR-NCOE@uscg.mil*”.

**PART 7—BOUNDARY LINES**

■ 16. Revise the authority citation for part 7 to read as follows:

**Authority:** 14 U.S.C. 503; 33 U.S.C. 151; DHS Delegation 00170.1, Revision No. 01.2.

■ 17. Revise § 7.30 to read as follows:

**§ 7.30 New York Harbor, NY.**

A line drawn from East Rockaway Inlet Breakwater Light (LLNR 31500) at 40°34′56.600″ N, 073°45′17.200″ W to 40°27′00″ N, 073°48′00″ W (former Ambrose Light position); thence to Highlands Light (LLNR 35025) (Private aid) (north tower) at 40°23′47.640″ N, 073°59′09.000″ W.

**PART 11—REQUIREMENTS FOR OFFICER ENDORSEMENTS**

■ 18. Revise the authority citation for part 11 to read as follows:

**Authority:** 14 U.S.C. 503; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, and 2110; 46 U.S.C. chapter 71; 46 U.S.C. 7502, 7505, 7701, 8906, and 70105; E.O. 10173, 15 FR 7005, 3 CFR, 1949–1953 Comp., p.356; DHS Delegation 00170.1, Revision No. 01.2. Section 11.107 is also issued under the authority of 44 U.S.C. 3507.

**§ 11.410 [Amended]**

■ 19. In § 11.410(c), remove the text “500” and add, in its place, the text “200”.

**§ 11.711 [Amended]**

■ 20. In § 11.711(c), remove the text “1,600 GRT/3,000 GT” wherever it appears and add, in its place, the text “1,600 GRT” and remove “of this subpart”.

**PART 13—CERTIFICATION OF TANKERMEN**

■ 21. Revise the authority citation for part 13 to read as follows:

**Authority:** 46 U.S.C. 3703, 7317, 8105, 8703, 9102; DHS Delegation 00170.1, Revision No. 01.2.

**§ 13.201 [Amended]**

■ 22. In § 13.201(c)(3), remove the text “Table 1 to § 13.121(g) of this part” and add, in its place, the text “Table 3 to § 13.121(e)”.

**§ 13.301 [Amended]**

■ 23. In § 13.301(c)(3), remove the text “Table 1 to § 13.121(g) of this part” and add, in its place, the text “Table 3 to § 13.121(e)”.

**§ 13.401 [Amended]**

■ 24. In § 13.401(d), remove the text “Table 1 to § 13.121(g) of this part” and add, in its place, the text “Table 3 to § 13.121(e)”.

**§ 13.501 [Amended]**

■ 25. In § 13.501(c)(3), remove the text “Table 1 to § 13.121(g) of this part” and add, in its place, the text “Table 3 to § 13.121(e)”.

**PART 15—MANNING REQUIREMENTS**

■ 26. Revise the authority citation for part 15 to read as follows:

**Authority:** 46 U.S.C. 2101, 2103, 3306, 3703, 8101, 8102, 8103, 8104, 8105, 8301, 8304, 8502, 8503, 8701, 8702, 8901, 8902, 8903, 8904, 8905(b), 8906 and 9102; sec. 617, Pub. L. 111–281, 124 Stat. 2905; and DHS Delegation 00170.1, Revision No. 01.2.

**§ 15.105 [Amended]**

- 27. Amend § 15.105 as follows:
  - a. In paragraph (f)(1), remove the text “2101(11)(a)” and add, in its place, the text “2101(12)”; and
  - b. In paragraph (f)(2), remove the text “2101(11)(c)” and add, in its place, the text “2101(14)”.
- 28. In § 15.812, amend Table 1 to paragraph (e)(2) by revising the first entry to read as follows:

**§ 15.812 Pilots.**

\* \* \* \* \*

(e) \* \* \*

(2) \* \* \*

TABLE 1 TO § 15.812(e)(2)—QUICK REFERENCE TABLE FOR FEDERAL PILOTAGE REQUIREMENTS FOR U.S.-INSPECTED TANK BARGES, NOT SAILING ON REGISTER

	Designated areas of pilotage waters (routes for which First-Class Pilot's licenses or MMC officer endorsements are issued)	Non-designated areas of pilotage waters (between the 3-mile line and the start of traditional pilotage routes)
Tank Barges greater than 10,000 GRT/ GT, authorized by their COI to proceed beyond the Boundary Line, or operating on the Great Lakes.	First Class Pilot .....	Master, Mate, or Master, Mate (Pilot) of towing vessels may serve as pilot if he or she: <ol style="list-style-type: none"> <li>1. Is at least 21 years old;</li> <li>2. Has an annual physical exam;<sup>2</sup></li> <li>3. Maintains current knowledge of the waters to be navigated; <sup>1</sup> and</li> <li>4. Has at least 6 months' service in the deck department on towing vessels engaged in towing operations</li> </ol>

<sup>1</sup> One roundtrip within the past 60 months.

<sup>2</sup> Annual physical exam does not apply to an individual who will serve as a pilot of a tank barge of less than 1,600 GRT.

\* \* \* \* \*

**PART 31—INSPECTION AND CERTIFICATION**

■ 29. Revise the authority citation for part 31 to read as follows:

**Authority:** 46 U.S.C. 2103, 3205, 3306, 3307, 3703, 70034; 46 U.S.C. Chapter 701; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; DHS Delegation 00170.1, Revision No. 01.2. Section 31.10–21 is also issued under the authority of sec. 4109, Pub. L. 101–380, 104 Stat. 515.

**§ 31.10–16 [Amended]**

- 30. Amend § 31.10–16 as follows:
  - a. In paragraph (e)(1), remove the text “17 Battery Place, Suite 1232, New York, NY 10004” and add, in its place, the text “180 Maiden Lane, Suite 903, New York, NY 10038”; and
  - b. In paragraph (e)(2), remove the text “321 West 44th Street, New York, NY 10036” and add, in its place, the text “481 Eighth Avenue, New York, NY 10001”.

**PART 67—DOCUMENTATION OF VESSELS**

■ 31. Revise the authority citation for part 67 to read as follows:

**Authority:** 14 U.S.C. 664; 31 U.S.C. 9701; 42 U.S.C. 9118; 46 U.S.C. 2103, 2104, 2107, 12102, 12103, 12104, 12105, 12106, 12113, 12133, 12139; DHS Delegation 00170.1, Revision No. 01.2.

**PART 71—INSPECTION AND CERTIFICATION**

■ 32. Revise the authority citation for part 71 to read as follows:

**Authority:** 46 U.S.C. 2113, 3205, 3306, 3307, 70034; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; DHS Delegation 00170.1, Revision No. 01.2.

**§ 71.30–10 [Amended]**

■ 33. In § 71.30–10(a), after the word “he”, add the words “or she”.

**§ 71.65–1 [Amended]**

■ 34. In § 71.65–1(c), remove the text “321 West 44th Street, New York, NY 10036” and add, in its place, the text “481 Eighth Avenue, New York, NY 10001”.

**PART 91—INSPECTION AND CERTIFICATION**

■ 35. Revise the authority citation for part 91 to read as follows:

**Authority:** 46 U.S.C. 3205, 3306, 3307, 70034; 46 U.S.C. Chapter 701; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; DHS Delegation 00170.1, Revision No. 01.2.

**§ 91.25–50 [Amended]**

- 36. In § 91.25–50:
  - a. In paragraph (a), after the word “he”, add the words “or she”.
  - b. Add reserved paragraph (b).

**§ 91.27–15 [Amended]**

- 37. In § 91.27–15:
  - a. In paragraph (a), after the word “he”, add the words “or she”.
  - b. Add reserved paragraph (b).

**PART 107—INSPECTION AND CERTIFICATION**

■ 38. Revise the authority citation for part 107 to read as follows:

**Authority:** 43 U.S.C. 1333; 46 U.S.C. 3306, 3307; 46 U.S.C. 3316; DHS Delegation 00170.1, Revision No. 01.2. Section 107.05 is also issued under the authority of 44 U.S.C. 3507.

**§ 107.317 [Amended]**

■ 39. In § 107.317(d), remove the text “321 West 44th Street, New York, NY 10036” and add, in its place, the text “481 Eighth Avenue, New York, NY 10001”.

**PART 126—INSPECTION AND CERTIFICATION**

■ 40. Revise the authority citation for part 126 to read as follows:

**Authority:** 46 U.S.C. 3205, 3306, 3307, 70034; 46 U.S.C. Chapter 701; sec. 617, Pub. L. 111–281, 124 Stat. 2905; E.O. 11735, 38 FR 21243, 3 CFR 1971–1975 Comp., p. 793; DHS Delegation 00170.1, Revision No. 01.2.

**§ 126.100 [Amended]**

■ 41. In § 126.100, after the word “he”, add the words “or she”.

**PART 144—CONSTRUCTION AND ARRANGEMENT**

■ 42. Revise the authority citation for part 144 to read as follows:

**Authority:** 46 U.S.C. 3103, 3301, 3306, 3308, 3316, 8104, 8904; 33 CFR 1.05; DHS Delegation 00170.1, Revision No. 01.2.

**§ 144.105 [Amended]**

■ 43. In the introductory text of § 144.105, remove the text “, 144.910”.

**PART 147—HAZARDOUS SHIPS' STORES**

■ 44. Revise the authority citation for part 147 to read as follows:



**Authority:** 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; DHS Delegation 00170.1, Revision No. 01.2.

■ 45. Revise the section heading to § 147.5 to read as follows:

**§ 147.5 Commandant (CG–ENG); address.**

\* \* \* \* \*

■ 46. Revise the section heading to § 147.40 to read as follows:

**§ 147.40 Materials requiring Commandant (CG–ENG) approval.**

\* \* \* \* \*

## PART 172—SPECIAL RULES PERTAINING TO BULK CARGOES

■ 47. Revise the authority citation for part 172 to read as follows:

**Authority:** 46 U.S.C. 3306, 3703, 5115; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; DHS Delegation 00170.1, Revision No. 01.2.

**§ 172.040 [Amended]**

■ 48. In § 172.040(b), remove the text “17 Battery Place, Suite 1232, New York, New York 10004–1110” and add, in its place, the text “180 Maiden Lane, Suite 903, New York, NY 10038”.

## PART 189—INSPECTION AND CERTIFICATION

■ 49. Revise the authority citation for part 189 to read as follows:

**Authority:** 46 U.S.C. 2113, 3306, 3307, 70034; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; DHS Delegation 00170.1, Revision No. 01.2.

**§ 189.25–50 [Amended]**

■ 50. In § 189.25–50:

- a. In paragraph (a), after the word “he”, add the words “or she”.
- b. Add reserved paragraph (b).

**Michael Cunningham,**

*Chief, Office of Regulations and Administrative Law.*

[FR Doc. 2022–00804 Filed 1–20–22; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Parts 36 and 42

RIN 2900–AR41

### Federal Civil Penalties Inflation Adjustment Act Amendments

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is providing public notice

of inflationary adjustments to the maximum civil monetary penalties assessed or enforced by VA, as implemented by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, for calendar year 2022. VA may impose civil monetary penalties for false loan guaranty certifications. Also, VA may impose civil monetary penalties for fraudulent claims or written statements made in connection with VA programs generally. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, sets forth a formula that increases the maximum statutory amounts for civil monetary penalties and directs VA to give public notice of the new maximum amounts by regulation.

**DATES:** *Effective Date:* This rule is effective January 21, 2022.

**FOR FURTHER INFORMATION CONTACT:**

Stephanie Li, Chief, Regulations Team, Loan Guaranty Service, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 632–8862. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act) (Pub. L. 114–74, sec. 701, 129 Stat. 599), which amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, 104 Stat. 890), to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The 2015 Act was codified in a note following 28 U.S.C. 2461. The 2015 Act requires agencies to publish annual adjustments for inflation, based on the percentage change between the Consumer Price Index (defined in the Act as the Consumer Price Index for all-urban consumers (CPI–U) published by the Department of Labor) for the month of October preceding the date of the adjustment and the prior year’s October CPI–U. 28 U.S.C. 2461 note, secs. 4(a) and (b) and 5(b)(1). This rule implements the 2022 calendar year inflation adjustment amounts.

Under 38 U.S.C. 3710(g)(4)(B), VA is authorized to levy civil monetary penalties against private lenders that originate VA-guaranteed loans if a lender falsely certifies that they have complied with certain credit information and loan processing standards, as set forth by chapter 37, title 38 U.S.C. and part 36, title 38 CFR. Under section 3710(g)(4)(B), any lender who knowingly and willfully makes such a false certification shall be liable

to the United States Government for a civil penalty equal to two times the amount of the Secretary’s loss on the loan involved or to another appropriate amount, not to exceed \$10,000, whichever is greater. VA implemented the penalty amount in 38 CFR 36.4340(k)(1)(i) and (k)(3). On December 15, 2021, the Office of Management and Budget (OMB) issued Circular M–22–07. This circular reflects that the October 2020 CPI–U was 260.388 and the October 2021 CPI–U was 276.589, resulting in an inflation adjustment multiplier of 1.06222. Accordingly, the calendar year 2022 inflation revision imposes an adjustment from \$23,607 to \$25,076.

Under 31 U.S.C. 3802, VA can impose monetary penalties against any person who makes, presents, or submits a claim or written statement to VA that the person knows or has reason to know is false, fictitious, or fraudulent, or who engages in other covered conduct. The statute permits, in addition to any other remedy that may be prescribed by law, a civil penalty of not more than \$5,000 for each claim. 31 U.S.C. 3802(a)(1) and (2). VA implemented the penalty amount in 38 CFR 42.3(a)(1) and (b)(1). As previously noted, OMB Circular M–22–07 reflects an inflation adjustment multiplier of 1.06222. Therefore, the calendar year 2022 inflation revision imposes an adjustment from \$11,803 to \$12,537.

Accordingly, VA is revising 38 CFR 36.4340(k)(1)(i) and (3) and 38 CFR 42.3(a)(1) and (b)(1) to reflect the 2022 inflationary adjustments for civil monetary penalties assessed or enforced by VA.

### Administrative Procedure Act

The Secretary of Veterans Affairs finds that there is good cause under 5 U.S.C. 553(b)(B) and (d)(3) to dispense with the opportunity for prior notice and public comment and to publish this rule with an immediate effective date. The 2015 Act requires agencies to make annual adjustments for inflation to the allowed amounts of civil monetary penalties “notwithstanding section 553 of title 5, United States Code.” 28 U.S.C. 2461 note, sec. 4(a) and (b). The penalty adjustments, and the methodology used to determine the adjustments, are set by the terms of the 2015 Act. VA has no discretion to make changes in those areas. Therefore, an opportunity for prior notice and public comment and a delayed effective date are unnecessary.

### Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory