

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, 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 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. |

TABLE 1—Continued

| 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 |
|--|--|--|--------------------------------------|---|
| CWA, 33 U.S.C. 1344(s)(4) | Maximum of \$25,000 per day for each violation. | Maximum of \$64,619 per day for each violation. | 1.03241 | Maximum of \$66,713 per day for each violation. |
| National Fishing Enhancement Act, 33 U.S.C. 2104(e). | Maximum of \$10,000 per violation | Maximum of \$28,304 per violation | 1.03241 | Maximum of \$29,221 per violation. |

Section 4 of the Inflation Adjustment Act directs federal agencies to publish annual penalty inflation adjustments. In accordance with section 553 of the Administrative Procedures Act (APA), many rules are subject to notice and comment and are effective no earlier than 30 days after publication in the **Federal Register**. Section 4(b)(2) of the Inflation Adjustment Act further provides that each agency shall make the annual inflation adjustments “notwithstanding section 553” of the APA. According to the December 2023 OMB guidance issued to Federal agencies on the implementation of the 2024 annual adjustment, the phrase “notwithstanding section 553” means that, “the public procedure the APA generally requires—notice, an opportunity for comment, and a delay in effective date—is not required for agencies to issue regulations implementing the annual adjustment.” Consistent with the language of the Inflation Adjustment Act and OMB’s implementation guidance, this rule is not subject to notice and opportunity for public comment or a delay in effective date. This rule adjusts the value of current statutory civil penalties to reflect and keep pace with the levels originally set by Congress when the statutes were enacted, as required by the Inflation Adjustment Act. This rule will apply prospectively to penalty assessments beginning on the effective date of this final rule.

Regulatory Procedures

Plain Language

In compliance with the principles in the President’s Memorandum of June 1, 1998, regarding plain language, this preamble is written using plain language. The use of “we” in this notice refers to the Corps and the use of “you” refers to the reader. We have also used the active voice, short sentences, and common everyday terms except for necessary technical terms.

Executive Order 12866, “Regulatory Planning and Review,” and Executive Order 13563, “Improving Regulation and Regulatory Review”

This rule is not designated a “significant regulatory action” under Executive Order 12866 and OMB determined this rule to not be significant. Moreover, this final rule makes nondiscretionary adjustments to existing CMP in accordance with the Inflation Adjustment Act and OMB guidance. The Corps, therefore, did not consider alternatives and does not have the flexibility to alter the adjustments of the civil monetary penalty amounts as provided in this rule.

Public Law 96–511, “Paperwork Reduction Act” (44 U.S.C. Chapter 35)

The Department of Defense determined that provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this rule because there are no new or revised recordkeeping or reporting requirements. This action merely increases the level of statutory civil penalties that could be imposed in the context of a federal civil administrative enforcement action or civil judicial case for violations of Corps-administered statutes and implementing regulations.

Executive Order 13132, “Federalism”

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This final rule will not have a substantial effect on State and local governments.

Public Law 96–354, “Regulatory Flexibility Act” (5 U.S.C. Chapter 6)

The Assistant Secretary of the Army (Civil Works) certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Because notice of proposed rulemaking and opportunity for comment are not required pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act are inapplicable. Therefore, the Regulatory Flexibility Act, as amended, does not require the Corps to prepare a regulatory flexibility analysis.

Unfunded Mandates Reform Act (2 U.S.C. Chapter 25)

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532) requires agencies to assess anticipated costs and benefits before issuing any rule the mandates of which require spending in any year of \$100 million in 1995 dollars, updated annually for inflation. This rule will not mandate any requirements for State, local, or tribal governments, nor will it affect private sector costs.

Public Law 104–113, “National Technology Transfer and Advancement Act (15 U.S.C. Chapter 7)

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, (15 U.S.C. 272 note), directs us to use voluntary consensus standards in our regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards. This rule does not involve technical standards. Therefore, we did not consider the use of any voluntary consensus standards.

Executive Order 13045, “Protection of Children From Environmental Health Risks and Safety Risks”

Executive Order 13045 applies to any rule that: (1) is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or

safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the rule on children, and explain why the regulation is preferable to other potentially effective and reasonably feasible alternatives. This rule is not subject to this Executive Order because it is not economically significant as defined in Executive Order 12866. In addition, it does not concern an environmental or safety risk that we have reason to believe may have a disproportionate effect on children.

Executive Order 13175, “Consultation and Coordination With Indian Tribal Governments”

Executive Order 13175 requires agencies to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” The phrase “policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.” This rule does not have tribal implications. The rule imposes no new substantive obligations on tribal governments. Therefore, Executive Order 13175 does not apply to this rule.

Public Law 104–121, “Congressional Review Act,” (5 U.S.C. Chapter 8)

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. We will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

Executive Order 12898, “Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations”

Executive Order 12898 requires that, to the greatest extent practicable and permitted by law, each Federal agency must make achieving environmental justice part of its mission. Executive Order 12898 provides that each Federal agency conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under such programs, policies, and activities because of their race, color, or national origin. This rule merely adjusts civil penalties to account for inflation, and therefore, is not expected to negatively impact any community, and therefore is not expected to cause any disproportionately high and adverse impacts to minority or low-income communities.

Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use”

This rule is not a “significant energy action” as defined in Executive Order 13211 because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects

33 CFR Part 207

Navigation (water), Penalties, Reporting and recordkeeping requirements, and Waterways.

33 CFR Part 326

Administrative practice and procedure, Intergovernmental relations, Investigations, Law enforcement, Navigation (Water), Water pollution control, and Waterways.

Approved by:
Michael L. Connor,
Assistant Secretary of the Army (Civil Works).

For the reasons set out in the preamble, title 33, chapter II, part 207 of

the Code of Federal Regulations is amended as follows:

PART 207—NAVIGATION REGULATIONS

- 1. The authority citation for part 207 continues to read as follows:

Authority: 33 U.S.C. 1; 33 U.S.C. 555; 28 U.S.C. 2461 note.

- 2. Amend § 207.800 by revising paragraph (c)(2) to read as follows:

§ 207.800 Collection of navigation statistics.

* * * * *

(c) * * *

(2) In addition, any person or entity that fails to provide timely, accurate, and complete statements or reports required to be submitted by the regulation in this section may also be assessed a civil penalty of up to \$6,975 per violation under 33 U.S.C. 555, as amended.

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PART 326—ENFORCEMENT

- 3. The authority citation for part 326 continues to read as follows:

Authority: 33 U.S.C. 401 *et seq.*; 33 U.S.C. 1344; 33 U.S.C. 1413; 33 U.S.C. 2104; 33 U.S.C. 1319; 28 U.S.C. 2461 note.

- 4. Amend § 326.6 by revising paragraph (a)(1) to read as follows:

§ 326.6 Class I administrative penalties.

(a) * * *

(1) This section sets forth procedures for initiation and administration of Class I administrative penalty orders under Section 309(g) of the Clean Water Act, judicially-imposed civil penalties under Section 404(s) of the Clean Water Act, and Section 205 of the National Fishing Enhancement Act. Under Section 309(g)(2)(A) of the Clean Water Act, Class I civil penalties may not exceed \$26,686 per violation, except that the maximum amount of any Class I civil penalty shall not exceed \$66,713. Under Section 404(s)(4) of the Clean Water Act, judicially-imposed civil penalties may not exceed \$66,713 per day for each violation. Under Section 205(e) of the National Fishing Enhancement Act, penalties for violations of permits issued in accordance with that Act shall not exceed \$29,211 for each violation.

TABLE 1 TO PARAGRAPH (a)(1)

| Environmental statute and U.S. code citation | Statutory civil monetary penalty amount for violations that occurred after November 2, 2015, and are assessed on or after June 4, 2024 |
|---|--|
| Clean Water Act (CWA), Section 309(g)(2)(A), 33 U.S.C. 1319(g)(2)(A) CWA, Section 404(s)(4), 33 U.S.C. 1344(s)(4) National Fishing Enhancement Act, Section 205(e), 33 U.S.C. 2104(e) | \$26,686 per violation, with a maximum of \$66,713. Maximum of \$66,713 per day for each violation. Maximum of \$29,221 per violation. |

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS-CAHA-NPS37329; Docket No. NPS-2023-0003; 233P103601-PPSECAHASO-PPMPSPD1Z.YM0000]

RIN 1024-AE83

Cape Hatteras National Seashore; Bicycling

AGENCY: National Park Service, Interior.
ACTION: Final rule.

SUMMARY: The National Park Service amends the special regulations for Cape Hatteras National Seashore to allow for bicycle use on an approximately 1.6-mile multi-use pathway in the Hatteras Island District of the Seashore.

DATES: This rule is effective July 5, 2024.

ADDRESSES:

Docket: The comments received on the proposed rule and an economic analysis are available on www.regulations.gov in Docket No. NPS-2023-0003.

Document Availability: The Construct Multi-use Pathway in Hatteras Island District Environmental Assessment (EA), Finding of No Significant Impact (FONSI), and related project documents provide information and context for this rulemaking and are available online at <https://parkplanning.nps.gov/caha> by clicking the link entitled “Construct Multi-Use Pathway in Hatteras Island District” and then clicking the link entitled “Document List.”

FOR FURTHER INFORMATION CONTACT:

David Hallac, Superintendent, Cape Hatteras National Seashore; (252) 473-2111; david_hallac@nps.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered

within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

Purpose and Significance of Cape Hatteras National Seashore

In 1937, Congress authorized the establishment of Cape Hatteras National Seashore. Located in the Outer Banks in Dare County, North Carolina, the Seashore consists of more than 30,000 acres distributed along approximately 75 miles of ocean-facing shoreline. The purpose of the Seashore is to permanently preserve the wild and primitive character of the ever-changing barrier islands, protect the diverse plant and animal communities sustained by coastal island processes, and provide for recreational use and enjoyment that is compatible with preserving the distinctive natural and cultural resources of the Nation’s first national seashore.

Located within a day’s drive of several urban centers, the Seashore is a popular vacation destination that receives approximately three million visitors each year. Stretching about 75 miles from north to south, the Seashore encompasses Bodie, Hatteras, and Ocracoke islands, which are linked by North Carolina Highway 12 (NC12) and the Hatteras Inlet Ferry. Nine villages, including Nags Head, Rodanthe, Waves, Salvo, Avon, Buxton, Frisco, Hatteras, and Ocracoke, are located adjacent to or within the Seashore. Popular visitor activities include beachcombing, swimming, fishing, hiking, camping, and learning about the history and natural features of the unique barrier islands. Visitors can access the northern entrance via roadways and the southern entrance by ferry or air travel. The Seashore encompasses a mix of land uses with villages, residences, commercial uses, tourist attractions, and nationally important resources within and adjacent to NPS-managed areas.

Bicycle Use in the Seashore

Bicycle use has occurred in the Seashore for several decades. Bicycles are allowed on roads and in parking areas that are open to public motor

vehicle traffic. Bicycle use is not allowed on any trails or pathways within the Seashore. Public roads and parking areas that are open to traditional bicycles are open to electric bicycles, which are defined in NPS regulations as two- or three-wheeled cycles with fully operable pedals and electric motors of not more than 750 watts that meet the requirements of one of three classes. See the definition of “electric bicycle” in 36 CFR 1.4(a).

New Multi-Use Pathway

Connectivity within and near the Seashore is important for realizing one purpose of the Seashore to provide access and opportunities for the benefit and enjoyment of visitors. The Seashore’s 1984 General Management Plan (GMP) recognized the need for a “bikeway” within the Seashore and identified the area adjacent to Lighthouse Road as an appropriate location that would provide access from NC12 and the village of Buxton to popular visitor use areas within the Cape Hatteras Lighthouse District. Multiple modes of transportation use the Lighthouse Road corridor. These include passenger, recreational, and camping vehicles, as well as pedestrians and bicyclists, who either share the paved road with motor vehicles or use the grassy shoulders along the road. Although the shoulders are wide enough to physically accommodate pedestrians and bicyclists for most of Lighthouse Road, there is no designated and safe pathway for these groups of visitors.

In May 2022 the NPS initiated a 30-day public scoping process to inform the development of plans to construct a multi-use, paved pathway adjacent to Lighthouse Road, consistent with the recommendation in the GMP. Following the public scoping period, in February 2023 the NPS published the EA to analyze the potential environmental consequences of no-action and action alternatives. Under the action alternative, which is the NPS’s preferred alternative, the NPS would construct a 10–12-foot-wide paved multi-use pathway in two phases. The pathway would be physically separated from but adjacent to Lighthouse Road, and then extend away from the road to the