Note: The text of Form N–2 does not, and these amendments will not, appear in the Code of Federal Regulations.

■ 12. Effective June 12, 2023, amend Form N–2 (referenced in §§ 239.14 and 274.11a–1) by:

■ a. Revising Instruction 3.D to Item 25 (''Fee Offset Source Submission Identification Example'') by removing the phrase ''the pre-effective amendment to the filing of the Form N–2 (333–123456) on 2/15/20X1 in relation to the payment of $5,000 . . .'' in the sixth bullet point of the instruction and replacing it with ''the pre-effective amendment to the Form N–2 (333–123456) filed on 2/15/20X1 in relation to the payment of $5,000 . . .'';

■ b. Revising the second sentence of Item 34.3.a.(2) to read as follows: ''Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the ''Calculation of Filing Fee Tables'' in the effective registration statement.''.

Note: The text of Form N–14 does not, and these amendments will not, appear in the Code of Federal Regulations.

■ 13. Effective June 12, 2023, amend Form N–14 (referenced in § 239.23) by revising Instruction 3.D to Item 16 (''Fee Offset Source Submission Identification Example'') by removing the phrase ''the pre-effective amendment to the filing of the Form N–2 (333–123456) on 2/15/20X1 in relation to the payment of $5,000 . . .'' in the sixth bullet point of the instruction and replacing it with ''the pre-effective amendment to the Form N–2 (333–123456) filed on 2/15/20X1 in relation to the payment of $5,000 . . .''

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

■ 14. The general authority for part 275 continues to read as follows and the sectional authority for § 275.211h–1 is removed.

Authority: 15 U.S.C. 80b–2(a)(11)(G), 80b–2(a)(11)(H), 80b–2(a)(17), 80b–3, 80b–4, 80b–4a, 80b–6(4), 80b–6a, and 80b–11, unless otherwise noted.

* * * * *

Dated: May 31, 2023.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2023–11845 Filed 6–9–23; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 83

[Docket No. USCG–2022–0071]

RIN 1625–AC81

State Enforcement of Inland Navigation Rules

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is issuing this final rule to adopt the 2022 interim rule removal of an incorrect statement in the Code of Federal Regulations about field preemption of State or local regulations regarding inland navigation. The incorrect language was added by a 2014 final rule, and the error was subsequently discovered. By adopting the removal of this language, this rule clarifies the ability of States to regulate inland navigation as they have historically done. This rule does not require States to take any action.

DATES: This final rule is effective June 12, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *www.regulations.gov,* type USCG–2022–0071 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 Jeffrey Decker, Coast Guard Office of Auxiliary and Boating Safety (CG–BSX); telephone 202–372–1507, email *Jeffrey.E.Decker@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Abbreviations
II. Basis and Purpose, and Regulatory History
III. Background
IV. Discussion of Comments and Changes
V. Discussion of the Rule
VI. 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

APA Administrative Procedure Act
COLREGS International Regulations for Prevention of Collisions at Sea, 1972
CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
Inland Rules Inland Navigation Rules
NAICS North American Industry Classification System
NPRM Notice of proposed rulemaking
OMB Office of Management and Budget
§ Section
SFRBT Sport Fish Restoration and Boating Trust
RFA Regulatory Flexibility Act
U.S.C. United States Code

II. Basis and Purpose, and Regulatory History

Section 3 of the Inland Navigational Rules Act of 1980, as amended by section 303 of the Coast Guard and Maritime Transportation Act of 2004,[1] ''Inland Navigation Rules Promulgation Authority,'' authorizes the Secretary of the Department in which the Coast Guard is operating to issue inland navigation regulations and technical annexes for all vessels on the inland waters of the United States. The goal of such regulations is to be as consistent as possible with the corresponding international regulations. The Secretary delegated this authority to the Coast Guard in Department of Homeland Security (DHS) Delegation 00170.1, Revision No. 01.3, paragraph (II)(79). The purpose of this final rule is to correct an error in title 33 of the Code of Federal Regulations (CFR) part 83, specifically in paragraph (a) of § 83.01, about the preemptive effect of the navigation regulations upon State or local regulation.

On September 6, 2022, the Coast Guard published an interim rule, making this correction effective immediately for good cause. (87 FR 54385) The interim rule also solicited public comments for 90 days.

III. Background

The Inland Navigation Rules (hereafter ''Inland Rules'') are a body of ''special rules'' as referred to in Rule 1 of the International Regulations for Prevention of Collisions at Sea, 1972, often referred to as ''COLREGS'' or ''International Rules.'' The President proclaimed the International Rules as

[1] Public Law 108–293, 118 Stat. 1028, Aug. 9, 2004. Section 3 of the Inland Navigational Rules Act of 1980 is codified at 33 U.S.C. 2071.

U.S. law in accordance with the International Navigational Rules Act of 1977.[2] Congress subsequently set about harmonizing the Inland Rules that remained in use within the United States, including the Western Rivers Rules, Great Lakes Rules, the old Inland Rules, and parts of the Motorboat Act of 1940. These efforts culminated in the Inland Navigational Rules Act of 1980, which codified Rules 1 through 38, considered the main body of the Inland Rules.[3]

Neither the International Navigational Rules Act of 1977 nor the Inland Navigational Rules Act of 1980 contained express language regarding the preemption of State law. A 2009 Sea Tow study (available in the docket where indicated under the **ADDRESSES** portion of the preamble) found that ''each State and Territory has its own version of navigation rules recorded in different locations in State law.'' The study further found that 37 of the 56 States and Territories had either adopted the International Rules or Inland Rules, or enacted laws requiring conformity with them. In April 2010, in accordance with congressional authorization, the Coast Guard issued regulations effectively transferring the Inland Rules from United States Code to the Code of Federal Regulations.[4] The 2010 rule made no specific statements about the preemptive effect of the Inland Rules. The section of the preamble that discussed federalism said that there were no implications for federalism under Executive Order 13132, which addresses preemption.

In 2012, the Coast Guard proposed routine amendments to the Inland Rules to retain consistency with COLREGS amendments approved by the International Maritime Organization.[5] At that time, the Coast Guard proposed to add a statement of preemptive effect to 33 CFR 83.01(a) in accordance with a 2009 Presidential memorandum regarding preemption.[6] A commenter asked the Coast Guard to clarify that the proposed preemption language referred to field preemption rather than conflict preemption, and in the 2014 final rule, the Coast Guard said that it did.[7] This erroneous statement has recently led to questions about whether State and local governments may regulate navigation on State waters where the Inland Rules apply. Some State agencies use State statutes to enforce violations outside the scope of the Inland Rules. These include prohibitions on negligent operations. Others have continued to patrol and enforce State boating violations under State navigation rules.

Field preemption means that State and local governments may not regulate in that field at all. This is distinct from conflict preemption, which allows State and local governments to regulate so long as their actions do not conflict with Federal regulations. Without express guidance from Congress, conflict preemption is the foundation for the relationship between the laws of the Federal government and those of the States. *See Arizona* v. *United States,* 567 U.S. 387 (2012).

The 2014 preemption language was not viewed as a change in authority, and State and local enforcement continued as before. In 2019, however, the Coast Guard learned that a boater had argued that the preemption statement in 33 CFR 83.01(a) meant that State law enforcement could not charge a violation of State navigation rules that were within the field of the Coast Guard's Inland Rules.

The Coast Guard had informal discussions with State boating law administrators about the meaning of the language, and, in 2021, the National Association of State Boating Law Administrators asked the Coast Guard to clarify the issue. The Coast Guard revisited the preemption language and determined that the 2014 statement of field preemption is incorrect and undermines States' efforts to enhance navigational safety. In particular, the Coast Guard determined that Congress is not only aware of States' broad efforts to regulate in the area of boating safety, but also that Congress, in part, funds these efforts through the Sport Fish Restoration and Boating Trust (SFRBT) Fund,[8] which is administered by the Coast Guard. The SFRBT Fund provides funding to States to enforce State boating laws and investigate boating accidents and fatalities, many of which are the direct result of navigation rules violations.

IV. Discussion of Comments

The Coast Guard received one comment on the interim rule, which simply stated ''GOOD.'' As a result, we made no changes to the regulatory text of the interim rule.

V. Discussion of the Rule

This rule adopts the removal of the final sentence of 33 CFR 83.01(a), which states that regulations in 33 CFR parts 83 through 90 have preemptive effect over State or local regulation within the same field. Removing the final sentence clarifies the original statutory language of Rule 1. This rule does not insert any other statement about preemption. This is consistent with prior versions of the Inland Rules, which were also silent on the subject and were historically viewed as conflict preemptive.

Generally, under the Supremacy Clause of the U.S. Constitution, States are precluded from regulating conduct in a certain field (that is, field preemption applies) where a statute contains an express preemption provision, or when Congress has determined that conduct in a particular field must be regulated by its exclusive governance. In the words of the U.S. Supreme Court, ''The intent to displace state law altogether can be inferred from a framework of regulation so pervasive . . . that Congress left no room for the States to supplement it, or where there is a federal interest . . . so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject.'' *Arizona,* 567 U.S. at 399 (internal quotations omitted).

In the case of inland navigation, nothing in the relevant statutory enactments by Congress has ever expressly stated or otherwise implied that the States are preempted from regulating in the field. Rather, the appropriate analysis is one of conflict preemption. Under conflict preemption, State law is preempted by Federal law only when compliance with both the State law and a Federal law is impossible, or the State law stands as an obstacle to the accomplishment and execution of the full purposes and objective of Congress. *See Arizona,* 567 U.S. 387. State regulation in the field of inland navigation is clearly evidenced by the longstanding existence of many State navigation laws and rules around the country, and by Congress' demonstrated awareness of such laws and rules and its lack of action to preempt them.

State and local marine patrols play a significant role in ensuring safety on our waterways by enforcing navigational safety rules. State and local marine patrols outnumber Coast Guard patrols and conduct almost all the on-water safety enforcement interactions with the boating public. Operator inattention, improper lookout, unsafe speed, and other navigation rules violations, such as operating at night without navigation

[2] Public Law 95–75, 91 Stat. 308 (July 27, 1977).

[3] Public Law 96–591, 94 Stat. 3415 (Dec. 24, 1980).

[4] 75 FR 19544, April 15, 2010; 33 CFR part 83.

[5] 77 FR 52175, August 28, 2012.

[6] ''Presidential Memorandum Regarding Preemption,'' May 20, 2009, available at: DCPD–200900384.pdf (*govinfo.gov*).

[7] 79 FR 37897, 37900, July 2, 2014.

[8] 46 U.S.C. Ch. 131: RECREATIONAL BOATING SAFETY (*house.gov*), See Section 13107: Authorization of Appropriations. Last viewed June 2022.

lights, are contributing factors in many boating accidents. The Coast Guard fully supports the efforts of State and local marine patrols to prevent unsafe operations in accordance with the Inland Rules. While Congress has legislated in this area, it has not created a pervasive or dominant framework that indicates any intent to preclude States from regulating or enforcing their own laws and rules. Accordingly, State and local rules are preempted only in the instances described above: where compliance with both a State requirement and a Federal requirement is impossible, or where the State law stands as an obstacle to the accomplishment and execution of the full purposes and objective of Congress.

We believe that most vessel operators, and State boating law administrators, assigned no meaning to the 2014 preemption language. Their ongoing operations will be unchanged by this final rule. Adopting the removal of the incorrect language about field preemption does not alter the obligations of the boating public. They have always been required to comply with the Inland Rules in 33 CFR parts 83 through 90. It also does not impose obligations on State and local government: no State or local government is required to enact its own navigation rules, and that does not change with removal of this language. This final rule merely allows State and local governments to continue to regulate local navigation in a way that is consistent with longstanding practice.

VI. 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

TABLE 1—SUMMARY OF IMPACTS OF THE FINAL RULE

Category	Summary
Applicability	The final rule adopts the removal of the last sentence in 33 CFR 83.01(a), ''The regulations in this subchapter (subchapter E, 33 CFR parts 83 through 90) have preemptive effect over State or local regulation within the same field.''
Affected Population	State and local Governments and vessel operators on the inland waterways.
Costs	No estimated costs.
Unquantified Benefits	Adopts the removal of incorrect regulatory language. This removal provides regulatory clarity to State and local governments to enforce their own regulations.

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 rule a significant regulatory action under section 3(f) of Executive Order 12866, as amended by Executive Order 14094. A regulatory analysis follows.

This final rule adopts the removal of incorrect language from 33 CFR 83.01(a). This rule clarifies that State and local governments are free to continue to regulate navigation consistent with longstanding practice. We believe that most vessel operators, and many local governments, were unaware of the 2014 error, and that their ongoing operations will be unchanged by this rule. No State has changed its Inland Rules since 2014, and our conversations with state regulators suggest they did not understand the preemption language to alter their enforcement ability. Based on our analysis, this rule does not impose any new requirements or regulatory costs on vessel operators, or on State and local governments. Many State and local governments were already enforcing navigation safety regulations, and the boating public has always been required to comply with the Inland Rules.

Affected Population

This rule affects all State and local navigational law enforcement patrols whose laws or regulations were purported to have been preempted by 33 CFR 83.01(a). Although vessel operators on the inland waterways are a part of the affected population of this rule, they will not incur any new regulatory costs because they were already required by Federal law to comply with State and local navigation rules. This rule creates legal clarity about the States' ability to enforce their own navigational rules, which will maintain safe boating conditions for vessel operators. This rule only confirms the States' ability to retain and enforce navigational safety laws within the field of the Inland Rules. We are not aware that any State altered its navigational rules in response to the 2014 preemption statement, so we do not expect any State will alter its navigational rules in response to the statement's removal.

Cost Analysis of the Final Rule

This final rule will not impose any new costs on vessel operators, or on State and local governments. State and local governments were already enforcing State and local regulations, and the boating public has always been required to comply with the Inland Rules. The economic baseline is that all potentially affected vessel operators and States are already in compliance with State and local rules, and, therefore, will not incur any costs from this rule.

Benefits Analysis of the Final Rule

The primary benefit of the final rule is to clarify the Inland Rules by adopting the removal of incorrect regulatory language and, therefore, removing any potential question about whether States and local jurisdictions can enforce navigational rules on vessel operators who navigate the inland waterways. Without adopting this removal, the regulatory text applied as previously written would purport to prevent State and local marine patrols from enforcing the navigation laws or regulations. Continued State and local enforcement of State and local navigational safety rules is essential. Four of the top five factors in recreational boating accidents, as reported in the 2020 Recreational Boating Statistics (Commandant

Publication P16754.34),[9] involve violations of navigation rules. Further, this rule clarifies that field preemption was never intended to be a valid legal defense in State enforcement proceedings.

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.

There are two affected populations for this final rule, States or State governments and vessel operators on the inland waterways. The North American Industry Classification System (NAICS) codes list State governments under the classification of ''Public Administration'' with a NAICS sector code of ''92.'' Although State governments would be affected by this final rule, they are not considered small entities under the Regulatory Flexibility Act (RFA) because they have populations of 50,000 or more. Local governments and vessel operators may be small entities under the RFA; however, this final rule does not impose any new regulatory requirements or costs on them. As a result, there are no small entities affected by this final rule. Our analysis shows that this final rule will not impose any regulatory costs on States and recreational boaters. The primary benefit of this final rule is to clarify existing regulatory text; therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

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.

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 or revised 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 analyzed this final rule under Executive Order 13132 and determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis follows.

States may not regulate in categories reserved by Congress for the exclusive regulation by the Coast Guard. For example, the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. *See United States* v. *Locke,* 529 U.S. 89 (2000). This final rule, however, is adopting the correction of a misstatement in the Inland Rules to clarify that the Inland Rules are not field preemptive of State regulation of categories touching upon navigational safety. Therefore, this rule is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with federalism implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule has implications for federalism under Executive Order 13132, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

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

[9] Recreational-Boating-Statistics-2020.pdf (*menlosecurity.com*), last viewed March 2022.

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 (*e.g.,* 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 meets the criteria for categorical exclusions A3 and L54 in Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev 1. Categorical exclusion A3 pertains to ''promulgation of rules of a strictly administrative or procedural nature;'' and those that ''interpret or amend an existing regulation without changing its environmental effect.'' Categorical exclusion L54 pertains to regulations that are editorial or procedural. This rule is a standalone action to delete an incorrect statement about field preemption of State or local regulations on the topic of inland navigation, the legal implications of which were recently recognized. This rule is not part of a larger action, and it will not result in significant impacts to the human environment. Removing the incorrect language will affirm the ability of States to legally regulate inland navigation as they long have done, well before the Inland Rules were established.

List of Subjects in 33 CFR Part 83

Navigation (water); Waterways.

Accordingly, the interim rule amending 33 CFR part 83, which was published on September 6, 2022 (87 FR 54385), is adopted as a final rule with the following change:

PART 83—NAVIGATION RULES

■ 1. The authority citation for part 83 is revised to read as follows:

Authority: 33 U.S.C. 2071; DHS Delegation No. 00170.1, Revision No. 01.3.

Dated: June 7, 2023.

W.R. Arguin,

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

[FR Doc. 2023–12466 Filed 6–9–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0481]

RIN 1625–AA87

Security Zones; Corpus Christi Ship Channel, Corpus Christi, TX

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing two temporary, 500-yard radius, moving security zones for certain vessels carrying Certain Dangerous Cargoes (CDC) within the Corpus Christi Ship Channel and La Quinta Channel. The temporary security zones are needed to protect the vessels, the CDC cargo, and the surrounding waterway from terrorist acts, sabotage, or other subversive acts, accidents, or other events of a similar nature. Entry of vessels or persons into these zones is prohibited unless specifically authorized by the Captain of the Port Sector Corpus Christi or a designated representative.

DATES: This rule is effective without actual notice from June 12, 2023 until June 16, 2023. For the purposes of enforcement, actual notice will be used from June 7, 2023, until June 12, 2023.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Anthony Garofalo, Sector Corpus Christi Waterways Management Division, U.S. Coast Guard; telephone 361–939–5130, email *Anthony.M.Garofalo@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Corpus Christi
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard must establish these security zones by June 7, 2023 to ensure security of these vessels and lacks sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to provide for the security of these vessels.

III. Legal Authority and Need for Rule

The Coast Guard may issue security zone regulations under authority in 46 U.S.C. 70051 and 70124. The Captain of the Port Sector Corpus Christi (COTP) has determined that potential hazards associated with the transit of the Motor Vessel (M/V) COOL DISCOVERER and M/V CELSIUS CHARLOTTE, when loaded, will be a security concern within a 500-yard radius of each vessel. This rule is needed to provide for the safety and security of the vessels, their cargo, and surrounding waterway from terrorist acts, sabotage or other subversive acts, accidents, or other events of a similar nature while they are