

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

### § 578.801 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.

### § 578.802 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. 13694 of April 1, 2015, as amended by E.O. 13757 of December 28, 2016, and any further Executive orders relating to the national emergency declared therein, and any action that the Secretary of the Treasury is authorized to take pursuant to Presidential Memorandum of September 29, 2017: Delegation of Certain Functions and Authorities under the Countering America's Adversaries Through Sanctions Act of 2017, the Ukraine Freedom Support Act of 2014, and the Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014, 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

### § 578.901 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. 2022–19138 Filed 9–2–22; 8:45 am]

**BILLING CODE 4810–AL–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:** Interim rule and request for comment.

**SUMMARY:** The Coast Guard is issuing this interim rule to remove an incorrect statement about field preemption of State or local regulations regarding inland navigation. The incorrect language was added in a 2014 rulemaking, and the error was recently discovered. By removing the 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 interim rule is effective September 6, 2022. Comments and related material must be received by the Coast Guard on or before December 5, 2022.

**ADDRESSES:** You may submit comments identified by docket number USCG–2022–0071 using the Federal Decision Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**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](mailto:Jeffrey.E.Decker@uscg.mil).

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#### 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 303 of the Coast Guard and Maritime Transportation Act of 2004,<sup>1</sup> “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. 01.2, paragraph (II)(92). The purpose of this interim 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.

The Coast Guard is issuing this rule without prior public notice and opportunity to comment, based on two findings under the “good cause” provision of the Administrative Procedure Act (APA). The APA’s notice and comment requirements do not apply when the agency, for good cause, finds that the notice and comment process is “impracticable, unnecessary, or contrary to the public interest.”<sup>2</sup> Here, prior notice and comment are unnecessary and contrary to the public interest because the Coast Guard is resolving an error it introduced to the Inland Navigation Rules (hereafter “Inland Rules”) through a 2014 amendment. As explained below, the language being removed is an incorrect statement regarding the preemptive effect of regulations.

The Coast Guard cannot leave the incorrect preemption statement in place, so public comment on it, or on its removal, is unnecessary. The statement was made in error. Leaving it in place could be seen as leaving the public without the protection of any meaningful enforcement of state and local navigation safety laws. No replacement language is being inserted, and no entity’s rights are harmed by the removal. The rule requires no action by either the States or the public.

Further, giving the public prior notice of the correction is contrary to the

public interest and could even cause harm. As written, the incorrect language purports to prevent States from adopting their own navigational safety regulations. The insertion of this incorrect language in 2014 had no impact, however, on day-to-day enforcement by States. State law enforcement units conduct nearly all the enforcement of navigation rules on inland waterways. An announcement in the **Federal Register** that States cannot do so would undermine the legitimacy of safety enforcement in the time between the notice of proposed rulemaking (NPRM) and the final rule. Violations of State and local navigation rules, such as excessive speed and failing to maintain a proper lookout, comprise four of the top five causal factors in recreational boating accidents.<sup>3</sup> Publishing an NPRM, which could create the impression that State marine patrols lack the authority to enforce State and local navigational safety laws, would undermine their purpose and could reduce safety on inland waters.

Therefore, the Coast Guard also finds good cause under Title 5 of the United States Code (U.S.C.) Section 553(d) to make this interim rule effective immediately on publication. In situations where prior comment is contrary to the public interest, the Coast Guard’s practice is to provide a comment period after issuing the rule if doing so will not interfere with the purpose and execution of that rule. We are providing a 90-day period for public comment and will consider all comments received during that time.

## III. Background

The Inland Rules are a special body of rules defined by 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 United States law in accordance with the International Navigational Rules Act of 1977.<sup>4</sup> Congress subsequently set about harmonizing the inland navigation 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.<sup>5</sup>

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.<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup> This erroneous statement has recently led to questions about whether State and local governments may regulate navigation on State waters where the Inland Navigation Rules apply. Some State agencies use State statutes to enforce violations outside the scope of the Inland Navigation Rules. These include prohibitions on negligent operations. Others have continued to patrol and enforce State boating violations under State navigation rules.

<sup>5</sup> Public Law 96–591, 94 Stat. 3415 (Dec. 24, 1980).

<sup>6</sup> 75 FR 19544, April 15, 2010; 33 CFR parts 83–90.

<sup>7</sup> 77 FR 52175, August 28, 2012.

<sup>8</sup> “Presidential Memorandum Regarding Preemption,” May 20, 2009, available at [whitehouse.gov \(archives.gov\)](https://www.whitehouse.gov/archives.gov) (last visited Jan. 19, 2022).

<sup>9</sup> 79 FR 37897, 37900, August 1, 2014.

<sup>1</sup> Public Law 108–293, 118 Stat. 1028, Aug. 9, 2004. Section 303 is codified at 33 U.S.C. 2071.

<sup>2</sup> 5 U.S.C. 553(b)(B).

<sup>3</sup> “2020 Recreational Boating Statistics,” Commandant Publication P16754.34 (June 29, 2021) available in the docket.

<sup>4</sup> Public Law 95–75, 91 Stat. 308 (July 27, 1977).

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 government 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 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,<sup>10</sup> 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 the Rule**

This rule removes 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 (*i.e.*, 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. *Arizona*, 567 U.S. at 399. "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." *Id.* (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 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 interim rule. Removing 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 will not change with removal of this language. This interim rule merely allows State and local governments to continue to regulate local navigation in a way that is consistent with longstanding practice.

**V. Regulatory Analyses**

We developed this interim 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 INTERIM RULE

Category	Summary
Applicability .....	The interim rule will remove the final 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.

<sup>10</sup> 46 U.S.C. Ch. 131: RECREATIONAL BOATING SAFETY (*house.gov*). See Section 13107:

Authorization of Appropriations. *last viewed June, 2022.*

TABLE 1—SUMMARY OF IMPACTS OF THE INTERIM RULE—Continued

Category	Summary
Unquantified Benefits .....	Removes incorrect regulatory language. This removal provides regulatory clarity to State and local governments to enforce their own regulations. The regulatory clarity will ensure the continued safety of the boating public.

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.

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

This interim rule removes incorrect language from 33 CFR 83.01(a). This rule will clarify 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, consequently, will be unchanged by this rule. No State has changed its inland navigation rules since 2014, and our conversations with state regulators suggest they did not understand the preemption language to alter their enforcement ability. Other than the 2019 challenge mentioned earlier, we know of no boaters asserting that the preemption language prevents State enforcement. Removing the incorrect language about field preemption does not alter the obligations of the boating public, who have always been required to comply with the Inland Rules in 33 CFR parts 83 through 90. This rule does not impose any additional burdens on vessel operators or impose obligations on State and local government: no State or local government is required to enact its own navigation rules. This rule will clarify that State and local governments are free to continue to regulate local navigation consistent with longstanding practice. Based on our analysis, this rule will 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 will affect 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 interim 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 interim 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 Interim Rule**

This interim 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 Interim Rule**

The primary benefit of the interim rule is to clarify the Inland navigation rules by removing the 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 this interim rule, the regulatory text applied as 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, because four of the top five factors in recreational boating accidents, as reported in the 2020 Recreational Boating Statistics (Commandant Publication P16754.34),<sup>11</sup> involve violations of navigation rules. Further, this interim rule will clarify that field preemption was never intended to be a valid legal defense in State enforcement proceedings.

**Alternatives Considered**

1. *No action.* The Coast Guard could leave the field preemption statement in 33 CFR 83.01(a). However, the Coast Guard's current regulatory statement, that the Inland Rules are field preemptive, is legally incorrect. Moreover, if applied as written, it would mean that the thousands of State and local marine patrols, often working cooperatively with the Coast Guard, have no legal authority to enforce their own navigation laws. If applied as written, the 2014 preemption language would constrain the authority of State and local marine patrols, effectively reducing navigational safety. This alternative, to retain the existing regulatory language in 33 CFR part 83.01(a), would expose vessels in the affected populations to an operational environment that has reduced navigational safety. The decrease in safety would increase the risk of future boating accidents. This alternative would not impose costs on State and local governments. This alternative would also undermine Congressional intent of supporting such State regulation via the SFRBT Fund.

2. *Provide notice and opportunity to comment prior to issuing an enforceable rule.* The Coast Guard considered providing public notice and opportunity to comment before issuing the rule. Publication of an NPRM is our preferred method in most circumstances and could provide an opportunity for the Coast Guard to obtain new insights about the project in advance of issuing an effective rule. The drawback to issuing an NPRM for this action is that doing so could create a public safety issue. Publication of an NPRM would

<sup>11</sup> *Recreational-Boating-Statistics-2020.pdf* (menlosecurity.com), last viewed March, 2022.

create confusion about State and local authority to enforce the Inland Rules and could lead to unsafe and otherwise prohibited conduct during the period in which vessel operators believe that States are unable to enforce their own navigation rules. Hence, this alternative would increase risk of accidents. This may also result in litigation between boaters and States if waterway incidents occur, with associated legal costs.

3. *Amend 33 CFR 83.01(a) by issuing an interim rule that is immediately effective, followed by public comment period and final rule.* This is the preferred alternative. The Coast Guard will remove the reference to field preemption in 33 CFR 83.01(a) without requesting public comment first. Instead, the Coast Guard invites the public to comment on the interim rule and will respond to those comments in a subsequent final rule. We present the costs and benefits of this alternative in this preamble.

#### B. Small Entities

Under the Regulatory Flexibility Act (RFA), 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 interim 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 interim rule, they are not considered small entities under the RFA because they have populations of 50,000 or more. Local governments and vessel operators may be small entities under the RFA; however, this interim rule does not impose any new regulatory requirements or costs on them. As a result, there are no small entities affected by this interim rule. Our analysis shows that this interim rule will not impose any regulatory costs on States and recreational boaters. The primary benefit of this interim rule is to clarify existing regulatory text; therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this interim 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 interim 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 interim 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 interim rule, however, is correcting 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 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.

#### VI. Public Participation and Request for Comments

The Coast Guard views public participation as essential to effective rulemaking, and will consider all comments and material received on this interim rule during the comment period. If you submit a comment, please include the docket number for this interim rule, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

**Submitting comments.** We encourage you to submit comments through the Federal Decision Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG–2022–0071 in the search box, and click “Search.” Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this interim rule for alternate instructions.

**Viewing material in the docket.** To view documents mentioned in this interim rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions web page. We review all comments received, but we will only post comments that address the topic of the interim rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

**Personal information.** We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

**Public meeting.** We are not planning to hold a public meeting, but we will consider doing so if we determine from public comments that a meeting would be helpful. We would issue a separate **Federal Register** notice to announce the date, time, and location of such a meeting.

#### List of Subjects in 33 CFR Part 83

Navigation (water); Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 83 as follows:

#### PART 83—NAVIGATION RULES

■ 1. The authority citation for 33 CFR part 83 is revised to read as follows:

**Authority:** 33 U.S.C. 2071; DHS Delegation No. 00170.1, Revision No. 01.2.

■ 2. Amend § 83.01 by revising paragraph (a) to read as follows:

##### § 83.01 Application (Rule 1).

(a) These Rules apply to all vessels upon the inland waters of the United States, and to vessels of the United States on the Canadian waters of the Great Lakes to the extent that there is no conflict with Canadian law.

\* \* \* \* \*

Dated: August 31, 2022.

**W.R. Arguin,**

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

[FR Doc. 2022–19154 Filed 9–2–22; 8:45 am]

**BILLING CODE 9110–04–P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 100

[Docket No. USCG–2022–0691]

#### Regulated Area; San Francisco Bay Navy Fleet Week Parade of Ships and Blue Angels Demonstration, San Francisco, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notification of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the limited access area in the navigable