

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, that all of 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. In addition, under the authority of Title I of the Ports and Waterways Safety Act, 33 U.S.C. 1221–1232 (specifically 33 U.S.C. 1223) and the MTSA our regulation will preempt any State action on the subject of automatic identification system carriage requirements. (See the decision of the Supreme Court in the consolidated cases of *United States v. Locke* and *Intertanko v. Locke*, 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000).) Our AIS carriage requirement rule falls into the category of equipping of vessels. Because the States may not regulate within this category, preemption under Executive Order 13132 is not an issue.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their regulatory actions not specifically required by law. 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 million or more in any one year. We do discuss the effects of this interim rule elsewhere in this preamble. However, this interim rule is exempted from assessing the effects of the regulatory action as required by the Act because it is necessary for the national security of the United States (2 U.S.C. 1503(5)).

Taking of Private Property

This interim rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This interim 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.

Protection of Children

The Coast Guard has analyzed this interim rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This interim rule is not an economically significant rule, and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This interim rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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. We invite your comments, however, on how this interim rule might impact tribal governments, even if that impact may not constitute a “tribal implication” under the Order.

Energy Effects

We have analyzed this interim 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 an economically significant regulatory action and is therefore not likely to have a significant adverse effect on the supply, distribution, or use of energy even though it is a “significant regulatory action” under Executive Order 12866. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Trade Impact Assessment

The Trade Agreement Act of 1979 (19 U.S.C. 2501–2582) prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety and security, are not considered unnecessary obstacles. The Act also requires consideration of international

standards and, where appropriate, that they be the basis for U.S. standards. We have assessed the potential effect of this interim rule and have determined that it is not likely to create substantial obstacles to the foreign commerce of the United States because we are implementing an international standards (IEC/IMO/ITU). In addition, because these regulations are being put in place in order to further a legitimate domestic objective, namely to increase the safety of vessels and the security of the United States, any obstacles created by the regulation are not considered unnecessary obstacles.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraphs (34)(d), (34)(e), and (34)(i) of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. This interim rule concerns vessel equipment requirements that will contribute to higher levels of marine safety and maritime domain awareness for U.S. ports and waterways. A “Categorical Exclusion Determination” is available in the docket where indicated under **ADDRESSES** or **SUPPLEMENTARY INFORMATION**.

This rulemaking will not significantly impact the coastal zone. Further, the rulemaking and the execution of this rule will be done in conjunction with appropriate State coastal authorities. The Coast Guard will, therefore, comply with the requirements of the Coastal Zone Management Act while furthering its intent to protect the coastal zone.

List of Subjects

33 CFR Part 26

Communications equipment, Marine safety, Radiotelephone, Vessels.

33 CFR Part 161

Harbors, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 164

Incorporation by reference, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 26, 161, 164, and 165 as follows: