



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 175

[Docket No. USCG-2023-0243]

RIN 1625-AC88

DUKW Amphibious Passenger Vessels

AGENCY: Coast Guard, DHS.

ACTION: Interim final rule; request for comments.

SUMMARY: The Coast Guard issues this interim rule as the first step to implement the statutorily mandated requirements for DUKW amphibious passenger vessels. This statutory mandate was enacted after the sinking of the *Stretch Duck 7* on July 19, 2018, which resulted in the loss of 17 lives on Table Rock Lake, Missouri. Section 11502 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 mandates additional safety measures for DUKW amphibious passenger vessels operating on navigable waters subject to Coast Guard jurisdiction. This interim final rule codifies the statutorily mandated requirements.

DATES: This interim rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Interested persons are invited to submit comments and related material on or before [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2023-0243 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,

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SUPPLEMENTARY INFORMATION:

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I. 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. Your comment can help shape the outcome of this rulemaking. 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 www.regulations.gov. To do so, go to <https://www.regulations.gov>, type USCG-2023-0243 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 proposed rule for alternate instructions.

Viewing material in 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 www.regulations.gov Frequently Asked Questions webpage.

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 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 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.

II. Abbreviations

2023 NDAA Year 2023	James M. Inhofe National Defense Authorization Act for Fiscal
APV	Amphibious passenger vessel
BLS	Bureau of Labor Statistics
CFR	Code of Federal Regulation
CG-ENG	Coast Guard’s Office of Design and Engineering Standards
DHS	Department of Homeland Security
FR	Federal Register
GMC	General Motors Corporation
GPH	Gallons per hour
GPM	Gallons per minute
LED	Light emitting diode
MISLE	Marine Information for Safety and Law Enforcement
NTSB	National Transportation Safety Board
NVIC 1-01	Navigation and Inspection Circular No. 1-01
OMB	Office of Management and Budget
§	Section
SME	Subject matter expert

III. Basis and Purpose

The legal basis for this rulemaking is the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023¹ (2023 NDAA). Section 11502(f) of the 2023 NDAA requires the Coast Guard to implement interim requirements for operators of DUKW amphibious passenger vessels (APVs). Specifically, the 2023 NDAA directs the Coast Guard to require that operators of DUKW APVs comply with nine requirements within 180 days and defines a DUKW APV as a vessel that uses, modifies, or is derived from the General Motors Corporation (GMC) DUKW-353 design, and operates as a small passenger vessel in “waters subject to the jurisdiction of the United States,” as defined 33 CFR 2.38 (or a successor regulation). The nine requirements are:

(1) Remove the canopies and any window coverings of such vessels for waterborne operations, or install a canopy that does not restrict horizontal or vertical escape by passengers in the event of flooding or sinking;

(2) If a canopy and window coverings are removed from any such vessel pursuant to paragraph (1), require that all passengers wear a personal flotation device approved by the Coast Guard before the onset of waterborne operations of such vessel;

(3) Reengineer such vessels to permanently close all unnecessary access plugs and reduce all through-hull penetrations to the minimum number and size necessary for operation;

(4) Install independently powered electric bilge pumps that can dewater such vessels at the volume of the largest remaining penetration in order to supplement an operable Higgins pump or a dewatering pump of equivalent or greater capacity;

¹ See Pub. L. 117-263, December 23, 2022, 136 Stat 2395.

- (5) Install in such vessels not fewer than four independently powered bilge alarms;
- (6) Conduct an in-water inspection of any such vessel after each time a through-hull penetration has been removed or uncovered;
- (7) Verify the watertight integrity of any such vessel through an in-water inspection at the outset of each waterborne departure;
- (8) Install underwater light emitting diode (LED) lights that activate automatically in an emergency; and
- (9) Otherwise comply with any other provisions of relevant Coast Guard guidance or instructions in the inspection, configuration, and operation of such vessels.

Section 11502(g) of the 2023 NDAA directs the Coast Guard to issue the section 11502(f) requirements without regard for the public notice and comment requirements in 5 U.S.C. 553. Therefore, this interim final rule implements the requirements for DUKW APV vessels and the accompanying definition without first receiving public notice and comment. Although the rule mirrors the specific statutory requirements, the Coast Guard issues this interim rule with request for public comments. In the future, we will issue final regulations after consideration of the public comments received. The other statutorily mandated requirements in sections 11502(b) through (e) the 2023 NDAA will be the subject of a future rulemaking.

IV. Background and Regulatory History

The purpose of this interim rule is to provide additional safety measures onboard applicable APVs. This rule follows a series of serious marine incidents involving the loss of multiple lives. On May 1, 1999, 13 lives were lost due to the *Miss Majestic* sinking. The *Miss Majestic* sank within a 30-second period, about 250 yards from shore, when a mechanical failure led to rapid flooding.

Following the incident, the Coast Guard met with the APV industry to discuss and develop comprehensive guidelines for best practices for the inspection and operation of these vehicles. The Coast Guard issued Navigation and Inspection Circular No. 1-01 (NVIC 1-01) on December 11, 2000² to provide supplemental guidance for DUKW APVs to meet the same level of safety as conventional small passenger vessels certificated under 46 CFR Subchapter T. The guidance document provides detailed recommendations for DUKW operators to consider for the design and operations of their vessels.

On July 19, 2018, a Coast Guard-inspected DUKW APV, experienced a loss of 17 lives when the *Stretch Duck 7* sunk. Multiple investigations into the event occurred, including investigations by the National Transportation Safety Board (NTSB) and the Coast Guard.

To further develop a path forward to improve safety on DUKW vessels, the Coast Guard commissioned a third-party study by the National Academies of Sciences, Engineering, and Medicine's Transportation Research Board (TRB). The TRB Special Report 342, *Options for Improving the Safety of DUKW Type Amphibious Vessels*, was published on December 16, 2021.³ The committee studied eight marine casualty events involving DUKW APVs that occurred in the United States and the United Kingdom from 1999 to 2021. Of the 8 marine casualty events, 3 of these events led to a total of 32 fatalities. The study reviewed all NTSB and Coast Guard information available and made recommendations for further steps to improve the safety of DUKW APV operations.

² Navigation and Inspection Circular No. 1-01, www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/5ps/NVIC/2001/n1-01.pdf (last visited 5/10/23).

³ National Academies of Sciences, Engineering, and Medicine. 2021. *Options for Improving the Safety of DUKW Type Amphibious Vessels*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/26447> (last visited 5/10/23).

The 2023 NDAA provides the Coast Guard the capability to swiftly improve the safety of the DUKW fleet. The Coast Guard considered both NVIC 1-01 and TRB Special Report 342 as key tools when developing this rule.

V. Discussion of the Rule

Section 11502(f) of the 2023 NDAA requires the Coast Guard to implement interim requirements for operators of DUKW APVs, which are the only requirements imposed by this rule. This interim rule adds the Congressionally mandated interim requirements from section 11502(f) of the 2023 NDAA to 46 CFR Subchapter T in a new § 175.124, and a definition of DUKW APV to § 175.400. Additionally, the rule clarifies certain aspects of the requirements, as discussed below. All of the requirements in 46 CFR part 176 for plan submission, review and approval by the Coast Guard for vessel alterations still apply in addition to these new requirements.

While we assume that most DUKW APVs will need modifications to comply with these interim requirements, a vessel that is already in partial or full compliance only needs to make the modifications necessary to achieve full compliance. For example, a DUKW APV that has two independently powered bilge alarms would only need to install two additional independently powered bilge alarms to comply with § 175.124(d). Similarly, a DUKW APV that has four independently powered bilge alarms would not need to install any additional bilge alarms. This compliance would be verified during the normal vessel inspection process.

Canopies and Egress

The requirements in 2023 NDAA section 11502(f)(1) and (2) require either the removal of canopies and any window coverings installed for waterborne operations, and the use of lifejackets approved by the Coast Guard for passengers before the onset of waterborne operations; or the installation of a canopy that does not restrict horizontal or vertical escape by passengers in the event of flooding or sinking. The requirements in

2023 NDAA section 11502(f)(1) and (2) are consolidated to clarify the two alternative means of modifying the DUKW APV to comply with the requirements in 2023 NDAA section 11502(f)(1) and (2).

Specifically, if the first of alternative in 2023 NDAA section 11502(f)(1) is chosen, then the lifejacket requirements in 2023 NDAA section 11502(f)(2) must be complied with. We added these requirements to 46 CFR 175.124(a)(1) and (2).

We also noted in § 175.124(a) that the lifejacket requirements for small passenger vessels are described in 46 CFR part 180, and we changed the terminology from “personal flotation device”, as used in the 2023 NDAA, to “lifejacket,” which is consistent with existing regulatory language and better describes the type of personal flotation device that passengers would use.

Section 11502(f)(8) of 2023 NDAA requires installation of underwater LED lights. Section 175.124(g) requires that the LED lights must be installed within the passenger compartment, capable of operating underwater, and activate automatically upon immersion to aid in emergency egress. This provides more specificity about how operators should comply with the requirement for LED lights.

Flooding

Section 11502(f)(3) of 2023 NDAA requires reengineering the vessel to close unnecessary access plugs and reduce all through-hull penetrations to the minimum number and size necessary for operation. Section 175.124(b) adds this requirement and incorporates additional language provided in the TRB Special Report 342, recommendation 4.a, to require that reengineering allows for both the safe operation and the maintenance of the DUKW APV. All the other requirements in 46 CFR part 176 for hull repairs and alterations still apply, in addition to the requirements in § 175.124(b) to permanently close or otherwise minimize access plugs and through-hull penetrations.

Section 11502(f)(4) of 2023 NDAA requires installing independently powered electric bilge pumps that are capable of dewatering such vessels at the volume of the largest remaining penetration in order to supplement an operable Higgins pump or a dewatering pump of equivalent or greater capacity. Section 175.124(c) does not reference “an operable Higgins pump” because we believe that any Higgins pump still onboard a DUKW APV would no longer be operational. Higgins pumps are over 80 years old and do not have spare parts readily available. Instead, § 175.124(c) incorporates an equation from NVIC 1-01 that determines the cumulative discharge rate of electric bilge pumps required to be onboard each vessel. The use of this formula was affirmed in the TRB Special Report 342, recommendation 4.c. To the extent that a DUKW APV still has an operable Higgins pump or other dewatering pump, the discharge rate from those pumps would be accounted for in the formula.

Section 11502(f)(5) of 2023 NDAA requires installation in vessels not fewer than 4 independently powered bilge alarms. Section 175.124(d) adopts that requirement without change. With respect to the location of those alarms, the DUKW APV must comply with the existing requirements found in § 182.530 for bilge high level alarms. Otherwise, operators should ensure that bilge alarms are located in separate spaces or in such a way to maximize effectiveness of the bilge alarms.

Inspections

Section 11502(f)(6) of 2023 NDAA requires the conducting of an in-water inspection of any such vessel after each time a through-hull penetration of such vessel has been removed or uncovered; and section 11502(f)(7) requires verification through an in-water inspection the watertight integrity of any such vessel at the outset of each waterborne departure of such vessel. Sections 175.124(e) and (f), respectively, adopt these requirements without change.

Guidance

Section 11502(f)(9) of 2023 NDAA requires compliance with other Coast Guard guidance or instructions in the inspection, configuration, and operation of DUKW APVs. This rule does not add this as a separate requirement in § 175.124. Rather, we incorporated the guidance or instruction directly into the text of § 175.124(a)-(g), as discussed above.

Definition and Applicability

A DUKW APV is specifically defined in section 11502(h)(2) of the 2023 NDAA as a vessel that uses, modifies, or is derived from the GMC DUKW-353 design, and operates as a small passenger vessel in waters subject to the jurisdiction of the United States. These models can usually be identified by “GMC DUKW-353” on their serial number name plates and are usually referred to as World War II Fleet DUKWs or Stretch Ducks, depending on the degree of modification the vessel has received. This rule adds a definition of DUKW APV to § 175.400 to clarify the applicability of the requirements in § 175.124.

Based on data from the Marine Information for Safety and Law Enforcement (MISLE) database, as of April 2023, there were 16 affected vessels owned or operated by three companies.

The Truck Duck APV model is not included in the Coast Guard’s interpretation of the statutory definition of DUKW APV for this rule. Truck Ducks were independently designed, purposely built with a different chassis and larger hull, and utilized modern construction methods. As a result of their larger hulls and higher freeboards, they have a lower-risk profile, and they do not have the same casualty history compared to the WWII and Stretch DUKW models. Moreover, Truck Ducks are not manufactured by GMC and would not have “GMC DUKW-353” on their serial number name plate. Truck Ducks and other APVs that are under the jurisdiction of the Coast Guard are not impacted by this rule.

Implementation

2023 NDAA section 11502(g) provides that the Coast Guard must implement these interim requirements within 180 days after enactment. Therefore, the Coast Guard is implementing these interim requirements immediately upon publication of this interim rule in the **Federal Register**. Operators will have 120 days from the date of publication of this interim rule to comply with the requirements.

VI. Regulatory Analyses

The Office of Management and Budget (OMB) has not reviewed this rule under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). By section 11502(g) of the 2023 NDAA, this interim rule is being published without regard to the Regulatory Flexibility Act, 5 U.S.C. 603, economic analysis requirements.

In lieu of our standard Regulatory Analyses, the Coast Guard is soliciting public comments to gather additional information for any future analyses.

A. Solicitation of Public Input on Specific Questions to Inform Regulatory Analyses

The Coast Guard asks for information. Your responses to the following questions will help the Coast Guard develop a rulemaking in the future. The questions are not all-inclusive, and any supplemental information is welcome. In responding to each question, please identify the question you are responding to and explain the reasons for your answer. If responding to a question and your response includes a monetary or numerical figure, please provide us with sufficient information, data, and transparency to be able to re-create any calculations. We encourage you to let us know your specific concerns with respect to any of the requirements of this interim final rule or the future rule (see section 11502 of the 2023 NDAA) under consideration.

1. Are any vessels affected by this rule currently in compliance with this rule, either in its entirety or in some provisions?
2. In order to comply with the requirement to modify the DUKW APV's canopies in § 175.124(a), would owners (a) Remove the canopies and any window coverings installed for waterborne operations and require that all passengers wear a USCG-approved lifejacket before the onset of waterborne operations of the DUKW APV; or (b) Install a canopy that does not restrict horizontal or vertical escape by passengers in the event of flooding or sinking?
3. What are the occupations of the workers who would do the canopy modification required by § 175.124(a)? How long, in hours, will it take (each of) these worker(s) to perform the modification? What materials will they need? How much does each material cost?
4. What are the occupations of the workers who would do the reengineering to close unnecessary plugs and through-hull penetrations, as required by § 175.124(b)? How long, in hours, will it take (each of) these worker(s) to perform the reengineering? How many penetrations would need to be closed? What are the materials and the cost of materials needed to close a penetration?
5. What is the current combined flow rate for the bilge pumps on the DUKW APVs? What is the target combined flow rate for the bilge pumps according to § 175.124(c)? Are Higgins pumps still operational? What are the occupations of the workers who install the extra bilge pumps? How long, in hours, will it take (each of) these worker(s) to install the extra bilge pumps? How many extra bilge pumps would be needed? What is the cost of each extra bilge pump? What about additional materials?
6. How many bilge alarms do DUKW APVs currently have? § 175.124(d) requires at least four bilge alarms. What are the occupations of the workers who install the

extra bilge alarms? How long, in hours, will it take (each of) these worker(s) to install the extra bilge alarms? What is the cost of each extra bilge alarm? What about additional materials?

7. After the modifications, by § 175.124(e), someone will have to conduct an in-water inspection of the DUKW APV. What are the occupations of the workers who would do the inspection? How long, in hours, will it take (each of) these worker(s) to perform the inspection? What about travel time?
8. Apart from the modifications required in this rule, how often per year are through-hull penetrations removed or uncovered?
9. Before every waterborne departure, someone will have to conduct an in-water inspection. What are the occupations of the workers who would do the inspection? How long, in hours, will it take (each of) these worker(s) to perform the inspection? How many departures does a DUKW APV make per year?
10. According to § 195.124(g), the DUKW APV will need underwater LED lights. What are the occupations of the workers who would install the lights? How long, in hours, will it take (each of) these worker(s) to install the lights? How much do the lights cost? What about other materials?
11. How long would an affected vessel be out of service to make the modifications necessary to comply with the requirements of this interim final rule?
12. How many trips would an impacted vessel be likely to miss while out of service to make the necessary modifications? Does this differ by time of year?
13. How will complying with this rule affect 2023, 2024, and 2025 revenues for you?
14. Future regulations may require that operators of DUKW APVs provide reserve buoyancy through passive means to ensure that such vessels remain afloat and upright in the event of flooding, including when carrying a full complement of passengers and crew (section 11502(b)(1) of the 2023 NDAA). What means

would an operator of an affected vessel most likely use to fulfill the reserve buoyancy requirement? Please provide any details available on the possible cost and time to install the means of meeting the reserve buoyancy requirement, as well as who (what occupation) would do the installation.

15. How will compliance with the present or future rule affect passenger capacity?

How does that affect revenues? Will you change the number of trips offered as a result?

16. Future regulations may require that an operator of an affected vessel proceed to the nearest harbor or safe refuge in any case in which a relevant watch or warning is issued (section 11502(b)(3)(A) of the 2023 NDAA). How often has a trip been interrupted or canceled due to weather conditions? What is the impact of these interrupted or cancelled trips on revenues? How can oversight of company management systems be further improved?

17. If you are a small business, what economic impact would this rule have on you, your business, or your organization? In your comments, please explain how and to what degree the requirement would have an economic impact. Also, please explain why these requirements affect your small business differently than it might affect a larger business.

18. Future regulations may require annual training for operators and crew of DUKW APVs (section 11502(b)(5) of the 2023 NDAA). A table of training requirements proposed by section 11502(b)(5) of the 2023 NDAA and existing training requirements appears in the table below. What specific training may need to be developed in light of this potential future regulation? Please provide information and data (whether quantitative or qualitative) regarding costs that training providers might incur from having to develop or update current courses and training requirements.

Table 1 - Proposed and Existing Training Requirements

Training Requirement	Current Requirement?
Section 11502(b)(5)(A) – Annual training for operators and crew of DUKW APVs	
Personal flotation	The only requirement for passengers to don life jackets is in § 185.508, where the master has to require the crew to wear them in certain instances and the crew has to help passengers don them. Section 185.420 has the general requirement for the crew training on helping passengers don life jackets in a situation like described in § 185.508.
Seat belt requirements	No existing requirement for training
Verifying the integrity of the vessel at the onset of each waterborne departure	No existing requirement for training
Identification of weather hazards, use of National Weather Service resources prior to operation	Master must pass exam for master credential, which includes topics of “Characteristics of Weather Systems” and “Weather Charts and Reports”; no existing requirement for crew training on weather
Section 11502(b)(5)(B) – Annual training for crew of DUKW APVs to respond to emergency situations	
Flooding	46 CFR 185.420
Engine compartment fires	46 CFR 185.420
Man-overboard situations	46 CFR 185.420
In water emergency egress procedures	No current training requirement for DUKW APV operators on egress

19. Are there any additional factors that we should consider in our assessment of the impacts of this interim rule, or in any of the other 2023 NDAA requirements detailed? Please offer any other comments or suggestions that may improve future regulation.

Please submit comments or concerns you may have in accordance with the “Public Participation and Request for Comments” section above.

B. Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, requires Federal agencies to consider the potential impact on small entities when they issue a rule after being required to first publish a general notice of proposed rulemaking. Under 5 U.S.C 604(a), a regulatory flexibility analysis is not required for this interim rule because

we are not publishing a general notice of proposed rulemaking. Therefore, we did not conduct a regulatory flexibility analysis for this rule.

C. Collection of Information

At this time, this interim rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. We request comments from the general public on this assumption.

D. Federalism

A rule has implications for federalism under Executive Order 13132 (Federalism) if it has a substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis follows.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled 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. *See* the Supreme Court's decision in *United States v. Locke* and *Intertanko v. Locke*, 529 U.S. 89 (2000). This rule implements the mandatory requirements prescribed by the 2023 NDAA for the design and maintenance of DUKW APV vessels operating on navigable waters subject to Coast Guard jurisdiction. Therefore, because the States may not regulate within these categories, 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.

E. 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.

This rule implements the statutory mandate in 2023 NDAA section 11502 (f) and is not a discretionary regulatory action. This rule only applies to the vessels that use, modify, or are derived from the GMC DUKW-353 design and operate as small passenger vessels in waters subject to the jurisdiction of the United States, as defined in 33 CFR 2.38. As of April 2023, the Coast Guard estimates there are only 16 affected vessels owned or operated by three companies. The Coast Guard expects these companies would incur the direct costs of this interim rule. The Coast Guard requests comments on the impacts of this interim rule under the Unfunded Mandates Reform Act.

F. 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).

G. 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.

H. 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.

I. 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.

J. 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.

K. 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.

L. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01, Rev. 1⁴, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series)⁵, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

This rule is categorically excluded under paragraphs L52 and L54 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev 1. Paragraph L52 pertains to “regulations concerning vessel operation safety standards.” Paragraph L54 pertains to

⁴ <https://www.dhs.gov/publication/directive-023-01-rev-01-and-instruction-manual-023-01-001-01-rev-01-and-catex>

⁵ <https://www.dcms.uscg.mil/Our-Organization/Assistant-Commandant-for-Engineering-Logistics-CG-4-/Program-Offices/Environmental-Management/Environmental-Planning-and-Historic-Preservation/Article/3053264/us-coast-guard-supplemental-environmental-assessment-for-the-national-coast-gua/>

promulgation of regulations that are editorial and procedural. This interim rule implements the statutorily mandated enhanced safety measures on DUKW amphibious passenger vessels operating on navigable waters subject to Coast Guard jurisdiction. This interim rule supports the Maritime Safety mission of the Coast Guard.

List of Subjects in 46 CFR Part 175

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR part 175 as follows:

PART 175 – GENERAL PROVISIONS

1. The authority citation for part 175 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3205, 3306, 3703; Pub. L. 103–206, 107 Stat. 2439; 49 U.S.C. App. 1804; DHS Delegation 00170.1, Revision No. 01.2, paragraph (II)(92)(a); § 175.900 also issued under 44 U.S.C. 3507.

2. Add § 175.124 to read as follows:

§ 175.124 Requirements for DUKW Amphibious Passenger Vessels.

No later than [INSERT DATE 120 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], all operators of a DUKW amphibious passenger vessel, as defined in 46 CFR 175.400, must:

(a) Modify the DUKW amphibious passenger vessel to either:

(1) Remove the canopies and any window coverings installed for waterborne operations, and require that all passengers wear a lifejacket approved by the Coast Guard, as described in part 180 of this subchapter, before the onset of waterborne operations of the DUKW amphibious passenger vessel; or

(2) Install a canopy that does not restrict horizontal or vertical escape by passengers in the event of flooding or sinking.

(b) Reengineer the DUKW amphibious passenger vessel to permanently close all unnecessary access plugs and reduce all through-hull penetrations to the minimum

number and size necessary for the safe operation or maintenance of the DUKW amphibious passenger vessel.

(c) Install an independently powered electric bilge pump(s) with a minimum total pumping capacity of: $GPM = 3600 \times A \times \sqrt{H}$

Where –

GPM = The minimum total pumping capacity in gallons per minute

A = The area (in square feet) of the largest hull penetration below a line drawn parallel to and at least 6 inches (150 millimeters) above the deepest load waterline.

\sqrt{H} = The square root of the vertical distance in feet from the center of the penetration to the deepest load waterline.

(d) Install in the DUKW amphibious passenger vessel not fewer than 4 independently powered bilge alarms.

(e) Conduct an in-water inspection of the DUKW amphibious passenger vessel after each time a through-hull penetration of such vessel has been removed or uncovered.

(f) Verify through an in-water inspection the watertight integrity of the DUKW amphibious passenger vessel at the outset of each waterborne departure of such vessel.

(g) Install within the passenger compartment LED lights capable of operating underwater that activate automatically to aid with emergency egress.

3. Amend § 175.400 by adding in alphabetical order a definition for “DUKW amphibious passenger vessel” to read as follows:

§ 175.400 Definitions of terms used in this subchapter.

* * * * *

DUKW amphibious passenger vessel means a vessel that uses, modifies, or is derived from the GMC DUKW-353 design, and is operating as a small passenger vessel in waters subject to the jurisdiction of the United States, as defined in 33 CFR 2.38.

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Dated: September 1, 2023.

W. R. Arguin,
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[FR Doc. 2023-19421 Filed: 9/8/2023 8:45 am; Publication Date: 9/11/2023]