



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2016-0355]

RIN 1625-AA08

Special Local Regulation for Marine Events; James River, Midlothian, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard will establish a special local regulation during the VBC Sprints Regatta event on the James River. The event consists of a series of crew rowing and sculling races to be held on the waters of the James River, near Robious Landing Park in Midlothian, Virginia. This regulated area will restrict vessel traffic and is necessary to provide for the safety of life on the navigable waters during the event.

DATES: This rule is effective from 8:30 a.m. through 6 p.m. on June 18, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2016-0355 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LCDR Barbara Wilk, Waterways Management Division Chief, Sector Hampton Roads, U.S. Coast Guard; telephone 757-668-5580, email hamptonroadswaterway@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
Pub. L.	Public Law
§	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 information about the Regatta on June 18, 2016 not received in sufficient time to permit publication of an NPRM.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Due to the need for immediate action, the restriction on vessel traffic is necessary to protect life, property and the environment; therefore, a 30-day notice is impracticable. Delaying the effective date would be contrary to the regulated area’s intended objectives of protecting persons and vessels, and enhancing public and maritime safety.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this special local regulation under authority in 33 U.S.C. 1233. The Coast Guard is establishing a temporary special local regulation on specified waters of the James River near Robious Landing Park in Midlothian, Virginia. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the regulated area during the VBC Sprints Regatta.

IV. Discussion of the Rule

The Captain of the Port Hampton Roads is establishing special local regulation on the specified waters of the James River bound by the following coordinates: 37°33'35.193"N / 077°38'51.6156"W; thence to 37°33'33.7608"N / 077°38'51.1044"W; thence to 37°33'33.75"N / 077°38'8.88W; thence to 37°33'36.0174"N / 077°38'8.8008"W (NAD 1983)), in the vicinity of Robious Landing Park in Midlothian, VA. This regulated area still allows for navigation on the waterway. This regulated area will be enforced from 8:30 a.m. to 6 p.m. on June 18, 2016. Except for participants and vessels authorized by the Captain of the Port or his Representative, no person or vessel may enter or remain in the regulated area.

The Captain of the Port will utilize various methods, including those listed in 33 CFR 165.7, provide notice to the affected segments of the public of the regulated area and restrictions. This includes publication in the Local Notice to Mariners Broadcast and Marine Information Broadcasts.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and

Executive Orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 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. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and time-of-year of the regulated area. Vessel traffic will be able to safely transit around this regulated area which will impact a small designated area of the James River in Midlothian, VA for less than one day and in an area where vessel traffic is normally low. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF-FM marine channel 16 about the regulated area and the rule allows vessels to seek permission to enter the regulated area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

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). 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.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the 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 that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

E. 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 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. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under

figure 2-1, paragraph (34) (h), of the instruction. This rule involves implementation of regulations within 33 CFR Part 100 that apply to organized marine events on the navigable waters of the United States that may have potential for negative impact on the safety or other interest of waterway users and shore side activities in the event area. The category of water activities includes but is not limited to sail boat regattas, boat parades, power boat racing, swimming events, crew racing, and sail board racing.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add temporary § 100.35T05-0355 to read as follows:

§ 100.35T05-0355 James River, Midlothian, VA.

- (a) **Definitions:** For the purposes of this section, Captain of the Port means the Commander, Sector Hampton Roads. Representative means any Coast Guard commissioned, warrant or

petty officer who has been authorized to act on the behalf of the Captain of the Port.

Participants mean individuals and vessels involved in the rowing and sculling races of the VBC Sprints Regatta.

(b) Location. The regulated area is established for the waters for the James River near the Robious Landing Park within the areas bounded by coordinates 37°33'35.193"N / 077°38'51.6156"W; thence to 37°33'33.7608"N / 077°38'51.1044"W; thence to 37°33'33.75"N / 077°38'8.88W; thence to 37°33'36.0174"N / 077°38'8.8008"W (NAD 1983) in Midlothian, VA.

(c) Regulations. (1) All persons are required to comply with the general regulations governing special local regulations in § 100.35 of this part.

(2) With the exception of participants, entry into or remaining in this safety zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(3) All vessels underway within this regulated area at the time it is implemented are to depart the area immediately, unless they are participants.

(4) The Captain of the Port, Hampton Roads or his representative can be contacted at telephone number (757) 668-5555.

(5) The Coast Guard and designated security vessels enforcing the regulated area can be contacted on VHF-FM marine band radio channel 13 (165.65Mhz) and channel 16 (156.8 Mhz).

(6) This section does not apply to participants and vessels that are engaged in the following operations:

(i) Enforcing laws;

(ii) Servicing aids to navigation; and

(iii) Emergency response vessels.

(7) The U.S. Coast Guard may be assisted in the patrol and enforcement of the regulated area by Federal, State, and local agencies.

(d) Enforcement period. This section will be enforced from 8:30 a.m. to 6 p.m. on June 18, 2016.

Dated: May 17, 2016

CHRISTOPHER S. KEANE,
CAPTAIN, U.S. Coast Guard,
Captain of the Port Hampton Roads.

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