



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2023-0510]

RIN 1625-AA08

Special Local Regulation; Atlantic Intracoastal Waterway, Morehead City, NC

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a special local regulation (SLR) for certain navigable waters of the Atlantic Intracoastal Waterway (AICW) and Beaufort Inlet in Morehead City, North Carolina. This SLR, will be enforced annually for one weekend each September, and will restrict vessel traffic on the AICW and Beaufort Inlet during high-speed boat races. The restriction of vessel traffic movement in the SLR is for the purpose of protecting participants and spectators from the hazards posed by these events. Entry of vessels or persons into this regulated area will be prohibited unless specifically authorized by the Captain of the Port (COTP), North Carolina or a designated representative.

DATES: This rule is effective without actual notice [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. For the purposes of enforcement this year, actual notice will be used from September 30, 2023 until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2023-0510 in the search box, and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Petty Officer Ken Farah, Waterways Management Division, U.S. Coast Guard Sector North Carolina, Wilmington, NC; telephone 910-772-2221, email ncmarineevents@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

AICW	Atlantic Intracoastal Waterway
CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
SLR	Special Local Regulation
U.S.C.	United States Code

II. Background Information and Regulatory History

On March 13, 2023, NC East Sports, Inc. notified the Coast Guard that it will be hosting the Crystal Coast Grand Prix powerboat race in Morehead City, NC. This high-speed boat race will take place from 10 a.m. to 6 p.m. on the waters of the Atlantic Intracoastal Waterway (AICW) and Beaufort Inlet each year on one consecutive Friday, Saturday, and/or Sunday in September. It is anticipated that approximately 60 high speed vessels will be participating each year. The racecourse encompasses approximately 1.5 square miles and will include all navigable waters of the AICW and Beaufort Inlet, North Carolina from approximate positions more particularly described in the discussion (paragraph III of this preamble), below. The Captain of the Port, Sector North Carolina (COTP) has determined that the presence of vessels not associated with the race, and anyone else in or transiting the designated area of the AICW and Beaufort Inlet in Morehead City, NC during the high-speed vessel race would pose a safety concern to the participating vessels, and to spectators of the event, as well as to others within the designated area. In response, on August 23, 2023, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Special Local Regulation; Atlantic Intracoastal

Waterway, Morehead City, NC.” There we stated why we had issued the NPRM and invited comments on our proposed regulatory action related to this high-speed boat race. During the comment period that ended September 22, 2023, we received no comments.]

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to protect non-participating persons, vessels, and participants against the hazards associated with restricted waterway during this high-speed boat race.

III. Legal Authority and Need for the Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The Captain of the Port, Sector North Carolina (COTP) has determined that the presence of vessels not associated with the race, and anyone else in or transiting the designated area of the AICW and Beaufort Inlet in Morehead City, NC during the high-speed vessel race would pose a safety concern to the participating vessels, and to spectators of the event, as well as to others within the designated area. The purpose of this rulemaking is to ensure the safety of vessels, participants, and other persons from the hazards associated with the event.

This rule will modify 33 CFR 100.501 by listing a new, recurring marine event in Table 4 to Paragraph (i)(4), which covers the Coast Guard Sector North Carolina - COTP Zone.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM. There are no changes in the regulatory text of this rule from that in the NPRM.

This rule establishes a SLR which will be enforced on a portion of the AICW and Beaufort Inlet from 10 a.m. until 6 p.m. each year on one consecutive Friday, Saturday, and/or Sunday in September. The times of enforcement would be broadcast locally over

VHF-FM marine radio via a Broadcast Notice to Mariners (BNM), Marine Safety Information Bulletin (MSIB), and Local Notice to Mariners (LNM).

The regulated area will encompass approximately 1.5 square miles and will include all navigable waters of the AICW and Beaufort Inlet, North Carolina, from approximate positions: latitude 34°42'55"N., longitude 076°43'15"W., then east to latitude 34°42'56"N., longitude 076°42'13"W., then east to latitude 34°42'57"N., longitude 076°41'41"W., then east to latitude 34°42'57"N., longitude 076°41'25"W., then south east to latitude 34°42'23"N., longitude 076°40'44"W., then south to latitude 34°41'59"N., longitude 076°40'43"W., then north west to latitude 34°42'32"N., longitude 076°42'14"W., then west to latitude 34°42'32"N., longitude 076°43'15"W., then north to its point of origin.

This SLR provides additional information about areas that will be included within the regulated area, including their definitions. These areas include "Race Area," "Spectator Area," and "Buffer Zone."

The size of the regulated area is intended to ensure the safety of life on these navigable waters before, during, and after activities associated with the high-speed boat race. The COTP and the Coast Guard Event Patrol Commander (PATCOM) have authority to forbid and control the movement of all vessels and persons, including event participants, in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area must immediately comply with the directions given by the COTP or Event PATCOM. If a person or vessel fails to follow such directions, the Coast Guard may expel them from the area, issue them a citation for failure to comply, or both.

Except for Crystal Coast Grand Prix race participants and vessels already at berth, a vessel or person would have to get permission from the COTP or Event PATCOM to remain in the regulated area during an enforcement period or to enter the regulated area. Vessel operators will be required to request permission to enter and transit through the

regulated area by contacting the Event PATCOM on VHF-FM channel 16. Vessel traffic will be able to safely transit the regulated area once the Event PATCOM deemed it safe to do so. A vessel within the regulated area will have to operate at safe speed that minimizes wake. A person or vessel not registered with the event sponsor as a participant or assigned as official patrols would be considered a spectator. Official Patrols will include any vessel assigned or approved by the Commander, Coast Guard Sector North Carolina with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign. Official Patrols enforcing this regulated area can be contacted on VHF-FM channel 16 and channel 22A.

If permission is granted by the COTP or Event PATCOM, a person or vessel will be allowed to enter the regulated area or pass directly through the regulated area as instructed. A spectator vessel will be prohibited from loitering within the Race Zone, Buffer Zone, or other portions of the navigable channel while it is within the regulated area. Official patrol vessels will direct spectators to the designated spectator area. Only participant vessels will be allowed to enter the Race Area, and the Buffer Zone, if necessary.

The proposed duration of this SLR is intended to protect participants and spectators on the navigable waters of the AICW and Beaufort Inlet during the high-speed boat race. Vessels can request permission to pass through the SLR between race heats. No vessel or person will be permitted to enter the SLR without obtaining permission from the COTP North Carolina or a designated representative.

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. This rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration and time of day of the SLR. Vessel traffic will not be allowed to enter or transit a portion of the AICW or Beaufort Inlet during an active race event for times as published each year on the second or last Friday, Saturday, and Sunday in September. The rule will, however, allow vessels to request permission to pass through the regulated area between race heats. The Coast Guard will transmit a BNM via VHF-FM marine channel 16, publish an MSIB, and post a LNM regarding the enforcement period of the SLR.

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 received no comments from the Small Business Administration on this rulemaking. 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 safety zone 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 (Pub. L. 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 call or email 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.

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 an 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 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 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 involves an SLR to be enforced during active race events on the Atlantic Intracoastal Waterway and Beaufort Inlet in Morehead City, NC. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration Memorandum for the Record supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email 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

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

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 100 as follows:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

2. In § 100.501, amend Table 4 to Paragraph (i)(4) by adding the following event after the last entry to read as follows.

§ 100.501 Special Local Regulations; Marine Events Within the Fifth Coast Guard District.

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Table 4 to Paragraph (i)(4)

Event	Regulated Area	Enforcement period(s)	Sponsor
* * * * *			
Crystal Coast Grand Prix Powerboat Race	All navigable waters of the AICW and Beaufort Inlet, North Carolina from approximate positions: latitude 34°42'55"N., longitude 076°43'15"W., then east to latitude 34°42'56"N., longitude 076°42'13"W., then east to latitude 34°42'57"N., longitude	One consecutive Friday, Saturday, and/or Sunday in September	NC East Sports, Inc.

	<p>076°41'41"W., then east to latitude 34°42'57"N., longitude 076°41'25"W., then south east to latitude 34°42'23"N., longitude 076°40'44"W., then south to latitude 34°41'59"N., longitude 076°40'43"W., then north west to latitude 34°42'32"N., longitude 076°42'14"W., then west to latitude 34°42'32"N., longitude 076°43'15"W., then north to its point of origin</p>		
	<p><i>Race area:</i> All navigable waters of the AICW and Beaufort Inlet, North Carolina, from approximate positions: latitude 34°42'52"N., longitude 076°43'16"W., then east to latitude 34°42'52.2"N., longitude 076°42'11.04"W., then east to latitude 34°42'53.76"N., longitude 076°41'38.04"W., then southeast to latitude 34°42'10.8"N., longitude 076°40'44.4"W., then south to latitude 34°42'4.3"N.,</p>		

	<p>longitude 076°40'48.1"W., then northwest to latitude 34°42'47.34"N., longitude 076°41'49"W., then west to latitude 34°42'50"N., longitude 076°43'16"W., then north to the point of origin</p>		
	<p><i>Spectator area:</i> All waters of the AICW, North Carolina, from approximate positions: latitude 34°42'42"N., longitude 076°43'15"W., then east to latitude 34°42'41"N., longitude 076°42'14"W., then south to latitude 34°42'32"N., longitude 076°42'14"W., then west to latitude 34°42'32"N., longitude 076°43'15"W., then north to the point of origin</p>		
	<p><i>Buffer zone:</i> All waters of the AICW and Beaufort Inlet, North Carolina, from approximate positions: latitude 34°42'55"N., longitude 076°43'15"W., then east to latitude 34°42'56"N., longitude 076°42'13"W., then east to latitude 34°42'57"N.,</p>		

	longitude 076°41'41"W., then east to latitude 34°42'57"N., longitude 076°41'25"W., then south east to latitude 34°42'23"N., longitude 076°40'44"W., then south to latitude 34°41'59"N., longitude 076°40'43"W., then north west to latitude 34°42'41"N., longitude 076°42'05"W., then west to latitude 34°42'42"N., longitude 076°43'15"W., then north to its point of origin		
1 As noted, the enforcement dates and times for each of the listed events in this table are subject to change. In the event of a change, or for enforcement periods listed that do not allow a specific date or dates to be determined, the Captain of the Port will provide notice to the public by publishing a Notice of Enforcement in the Federal Register, as well as, issuing a Broadcaster Notice to Mariner.			

Timothy J. List,
Captain, U.S. Coast Guard,
Captain of the Port, Sector North Carolina.