



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

USCG-2024-0345

RIN 1625-AA08

Special Local Regulation; York River, Yorktown, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for a portion of the navigable waters in the York River, in Yorktown, VA. The special local regulation is needed to protect personnel and vessels during the York River Workboat Races. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector Virginia.

DATES: This rule is effective from 11 a.m. until 3 p.m. on June 2, 2024.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2024-0345 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 rule, call or email LCDR Ashley Holm, Chief, Waterways Management Division, Sector Virginia, U.S. Coast Guard; telephone 757-668-5580, email Ashley.E.Holm@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port, Sector Virginia

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The sponsor of the "Yorktown Workboat Races," a high-speed boat race to be held at the Yorktown waterfront, has applied for a permit to conduct that event on June 2, 2024, as required by 33 CFR 100.15. After the approval of such a permit, the Captain of the Port, Sector Virginia (COTP) is authorized to promulgate such "special local regulations" as he or she deems necessary to ensure the safety of life on the navigable waters immediately prior to, during, and immediately after the event. *See* 33 CFR 100.35(a). This temporary rule embodies the special local regulations the COTP deems necessary for this event.

The Coast Guard is issuing this temporary rule under authority in 5 U.S.C. 553(b)(B). This statutory 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." The Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable to publish an NPRM, provide a comment period, consider any comments submitted, and publish a final regulation by June 2, 2024, when the rule must be in effect to ensure the safety of life on the navigable waters during the Workboat Race scheduled to take place then.

In addition, the Coast Guard finds that good cause exists under 5 U.S.C. 553(d)(3) for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest, as it is in the public interest to have the rule in effect on June 2nd to ensure the safety of event spectators, and those in support craft and other vessels transiting the navigable waters

adjacent to the event. As noted below, advance notifications will be made to affected users of the waterway via Broadcast Notice to Mariners and Local Notice to Mariners.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The COTP has determined that potential hazards associated with a high-speed boat race on June 2, 2024, will be a safety concern for anyone within the race area. This rule is needed to protect personnel and vessels in the navigable waters within the special local regulation during the event.

IV. Discussion of the Rule

This rule establishes a special local regulation from 11 a.m. until 3 p.m. on June 2, 2024. The special local regulation will cover all navigable waters within the following latitude and longitude positions: 37°14'21.6" N, 76°30'27.2" W; 37°14'23.5" N, 76°30'25.6" W; 37°14'10.4" N, 76°30'11.2" W; 37°14'13.3" N, 76°30'08.0" W. The duration of the zone is intended to protect personnel and vessels in these navigable waters during a high-speed boat race. No vessel or person will be permitted to enter the area subject to this special local regulation without obtaining permission from the COTP 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 special local regulation. Vessel traffic will be able to safely transit around this special local regulation which would impact a small, designated area of the York River for four hours on a Sunday when vessel traffic is normally low. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

In the spirit of 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 a

special local regulation lasting only 4 hours that will prohibit entry within the following latitude and longitude positions: 37°14'21.6" N, 76°30'27.2" W; 37°14'23.5" N, 76°30'25.6" W; 37°14'10.4" N, 76°30'11.2" W; 37°14'13.3" N, 76°30'08.0" W. 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 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

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 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. Add § 100.T599-0345 to read as follows:

§ 100.T599-0345 Special Local Regulation; York River, Yorktown, VA

(a) *Regulated area[s]*. The regulations in this section apply to the following area: All waters of York River, from surface to bottom, encompassed by a line connecting the following points: 37°14'21.6" N, 76°30'27.2" W; 37°14'23.5" N,

76°30'25.6" W; 37°14'10.4" N, 76°30'11.2" W; 37°14'13.3" N, 76°30'08.0" W. These coordinates are based on WGS84.

(b) *Definitions.* As used in this section—

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Virginia (COTP) in the enforcement of the regulations in this section.

Non-Participant means any person or and vessel not registered with the event sponsor as a participant in the race.

(c) *Regulations.* (1) All non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area described in paragraph (a) of this section unless authorized by the COTP or their designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by VHF-FM Channel 16. Those in the regulated area must comply with all lawful orders or directions given to them by the COTP or the designated representative.

(3) The COTP will provide notice of the regulated area through advanced notice via broadcast notice to mariners and by on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced from 11 a.m. to 3 p.m. on June 2, 2024.

Dated: May 10, 2024.

J.A. Stockwell,
Captain, U.S. Coast Guard,
Captain of the Port, Sector Virginia