



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 100

[Docket Number USCG-2025-0156]

RIN 1625-AA08

### Special Local Regulation, East River, Mathews, Virginia

**AGENCY:** Coast Guard, Department of Homeland Security.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish a special local regulation for certain waters on the East River in Mathews, VA. This action is necessary to provide for the safety of life on these navigable waters during an annual “Wharf to Wharf Swim.”

This proposed rulemaking would prohibit persons and vessels from entering the regulated area unless authorized by the Captain of the Port, Sector Virginia or a designated representative. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments, identified by docket number USCG-2025-0156, 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. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary, will be available in this same docket.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email LCDR Justin Strassfield, Sector Virginia, Waterways

Management Division, U.S. Coast Guard, telephone: (571) 608-2969; or

viriniawaterways@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	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
PATCOM	Patrol Commander
§	Section
SLR	Special Local Regulation
U.S.C.	United States Code

### **II. Background, Purpose, and Legal Basis**

On January 2, 2025, the Coast Guard received a request, under 33 CFR 100.15, from the Mathews Outdoor Club, for a Marine Event Permit to host a 1-mile long, open water swim to be held on August 16, 2025, from 10 a.m. until noon, in Mathews, VA. The club has indicated that it plans to host this swim annually thereafter, on the third Saturday of August. The open water swim will include approximately 50 participants and 10 spectator craft.

Hazards which might arise from the open water swim include the possibility that participants swimming within the navigable channel might collide with or otherwise interfere with vessels operating in the channel, as well as the possibility that participants swimming within approaches to local public and private boat facilities might collide with or otherwise interfere with boaters near those facilities. The Captain of the Port, Sector Virginia (COTP) has determined that these potential hazards associated would be a safety concern for anyone intending to operate within the specified waters of the East River.

The COTP, after approving plans for the holding of a regatta or marine parade within his or her district or zone, is authorized to promulgate such special local regulations (SLRs) as he or she deems necessary to ensure safety of life on the navigable

waters immediately prior to, during, and immediately after the approved regatta or marine parade. 33 CFR 100.35. The purpose of this rulemaking is to protect event participants, non-participants, and transiting vessels before, during, and after the scheduled event by promulgating a SLR for the annual event. The Coast Guard is proposing this rulemaking under statutory authority in 46 U.S.C. 70041.

### **III. Discussion of Proposed Rule**

The COTP is proposing to establish a SLR which would be codified within 33 CFR 100.501 (Special Local Regulations; Marine Events Within the Fifth Coast Guard District). The SLR would be subject to enforcement annually, from 9 a.m. to 1 p.m. on the third Saturday of August. There is no alternate day planned for this event. Section 100.501 provides, however, that, in the case of inclement weather or other just cause found by the respective COTP, an event may be conducted within 30 days before or after the date(s) identified in the SLR. See 33 CFR 100.501(g).

The proposed regulated area would be located on the East River, in the vicinity of Williams Wharf Landing, in Mathews, VA, on a designated, marked course between Hick's Wharf, and it would continue across the East River, to the coastline directly across from Williams Wharf. The coordinates of the regulated area are provided in the language of the draft rule, provided below. The regulated area is approximately 760 yards in length and 700 yards in width. The proposed enforcement period for the rule and the size of the regulated area have been chosen to ensure the safety of life on these navigable waters before, during, and after the open water swim scheduled from 10 a.m. to 12 p.m. on the third Saturday of August annually. As provided in 33 CFR 100.501(d)(1), the COTP and Coast Guard Event Patrol Commander (PATCOM) would have authority to forbid and control the movement of all vessels and persons, including event participants, in the regulated area. No vessel or person would be permitted to enter the regulated area without obtaining permission from the COTP or Event PATCOM. The regulatory text

we are proposing appears at the end of this document.

#### **IV. Regulatory Analyses**

We developed this proposed 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 NPRM has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866. Accordingly, the NPRM 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 enforcement period of the special local regulation. This special local regulation would impact a small, designated area of the East River for only 2 hours one day a year. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the regulated area, and the proposed rule would allow 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

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 proposed rule. If the proposed 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. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

#### *C. Collection of Information*

This proposed rule would 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 proposed 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 proposed 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. If you believe this proposed rule has implications for federalism or Indian Tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

*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 proposed rule would not result in such an expenditure, we do discuss the potential effects of this proposed rule elsewhere in this preamble.

*F. Environment*

We have analyzed this proposed 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 made a preliminary 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. This proposed rule involves regulated area on certain waters of the East River that would prohibit entry without permission from the designated PATCOM or COTP. Normally such actions are categorically excluded from further review under paragraph L61 of

appendix A, table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary 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. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

## **V. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking and will consider all comments and material received 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 rulemaking, 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 <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2025-0156 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 proposed 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 <https://www.regulations.gov> Frequently Asked Questions webpage. Also, if you click on the Dockets tab and then the proposed rule, you should see a "Subscribe" option for email alerts. The option will notify you when comments are

posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed 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 <https://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 e-Rulemaking System of Records notice (85 FR 14226, March 11, 2020).

**List of Subjects in 33 CFR Part 100**

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

For the reasons stated in the preamble, the Coast Guard proposes 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 3 to paragraph (i)(3) by adding, in alphabetical order, the entry “Mathews Wharf to Wharf Swim” to read as follows:

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

\* \* \* \* \*

(i) \* \* \*

(3) \* \* \*

Table 3 to Paragraph (i)(3)

Event	Regulated area	Enforcement period(s) <sup>1</sup>	Sponsor
* * * * *			
Mathews Wharf to Wharf Swim	All navigable waters encompassed by the following points, in Mathews, Virginia: beginning at Hick’s Wharf at latitude 37°24’34” N, longitude 076°20’56” W, thence east across the East River to latitude 37°24’34” N, longitude 076°20’37” W, thence south encompassing all shoreline to Williams Wharf at latitude 37°24’13” N, longitude 076°20’49” W, thence west back across the East River to latitude 37°24’14” N, longitude 076°21’08” W, thence north along the shoreline to the point of origin.	Third Saturday in August.	Mathews Outdoor Club.
* * * * *			

<sup>1</sup> 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.

\* \* \* \* \*

Dated: March 28, 2025.

**Peggy M. Britton,**  
*Captain, U.S. Coast Guard,*  
*Captain of the Port Sector Virginia.*