



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2025-0463]

RIN 1625-AA08

Special Local Regulation; 100th Annual Pony Swim, Chincoteague Inlet and Surrounding Waters, Sector Virginia Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary Special Local Regulation on the waters around Assateague, Chincoteague, and Wallops Islands. This action is necessary to provide for the safety of life on these navigable waters from potential hazards during the week of the 100th Annual Pony Roundup, Swim & Auction. All non-participants would be prohibited from entering, transiting through, anchoring in, or remaining within the regulated area without permission from the Captain of the Port 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 14 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number **USCG-2025-0463** 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 virginiawaterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

COTP	Captain of the Port, Sector Virginia
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, Purpose, and Legal Basis

A Captain of the Port, after approving plans for the holding of a “regatta or marine parade” (an organized water event of limited duration which is conducted according to a prearranged schedule, 33 CFR 100.05(a)) within his or her Captain of the Port 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. Each year, the Chincoteague Volunteer Fire Company notifies the Coast Guard that it will be conducting a pony round up and auction which requires closure of the Assateague Channel for a “pony swim,” the passage of the animals from Assateague Island to Chincoteague Island and submits a permit under 33 CFR 100.15. To provide for the closure of the Assateague Channel and to reserve sufficient space to designate spectator areas around the event, a permanent Special Local Regulation (SLR) was created in table 3 to paragraph (i)(3) to 33 CFR 100.501 to support this recurring Permitted Marine Event.

This year’s event is the 100th of its kind and it is therefore expected to draw many

more spectators than in previous years. Due to the expected increased number of spectators, increased vessel traffic, and an increased population on and around Chincoteague Island, the Captain of the Port, Sector Virginia (COTP) has determined this year's event will present safety concerns over a significantly larger area than the regulated area of the permanent SLR. We are therefore proposing this temporary rule to allow for supervision over a larger area and more specific traffic control measures than the permanent regulation covers. The Coast Guard is proposing this rule under authority in 46 U.S.C. 70041.

III. Discussion of Proposed Rule

The COTP is proposing to establish an SLR which would be in effect and subject to enforcement from 6 a.m. on July 26th, 2025 to 10 p.m. on August 1, 2025. The SLR would create a buffer zone, a neutral area that surrounds the perimeter of the regulated area, covering all navigable waters within the boundary of a perimeter drawn from points: 37 57' N, 075 27' W; 37 57' N, 075 21' W; 37 52' N, 075 21' W; 37 52' N, 075 27' W. It would extend to persons and vessels transiting through the waters around Chincoteague Island, Assateague Island and the North shores of Wallops Island, on the week of the event.

This proposed rulemaking would prevent persons and vessels from impacting the movement of emergency services in the regulated area and provide traffic control measures in the buffer zone when directed by the COTP or a designated representative. The proposed enforcement period for the rule and the size of the special local regulation's regulated area and buffer zone have been chosen to ensure the safety of life on these navigable waters before, during, and after the scheduled multi-day event. The rule would allow vessels to operate using conventional navigational rules within the buffer zone unless unsafe conditions or vessel concentrations are identified. The COTP and Coast Guard Event Patrol Commander (PATCOM) would, however, control the movement of

all vessels and persons, including event participants, in the buffer zone and regulated area, and could forbid such movement, as warranted by the circumstances.

Because unsafe conditions are most likely to occur in the vicinity of channel narrowing bridges, and because the proper functioning the roadways into and out of the island will be significantly impacted by the increase in vessels attending the event, specific regulations around the movement of vessels around bridges has been prescribed within the regulation. These will be broadcast during the week of the event to aid in managing the congestion expected. The Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the enforcement of the SLR. The regulatory text we are proposing appears at the end of this document.

We are providing a comment period of 14 days on the assumption we will have enough time to receive comments, consider them, make any appropriate changes, and publish a temporary final rule by July 26, 2025, when the event begins.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) 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.

The Office of Management and Budget (OMB) has not designated this rule a “significant regulatory action” under section 3(f) of Executive Order 12866.

Accordingly, OMB has not reviewed it.

This regulatory action determination is based on the size, location, duration, and time-of-day of the SLR. Vessel traffic would be able to safely transit normally through this buffer zone and regulated area during the evenings, when vessel traffic is normally low. Moreover, within the buffer zone, beyond the immediate vicinity of the Pony Swim, the Coast Guard will only be controlling traffic when there are unsafe concentrations of marine traffic, or where the concentration of marine traffic would impact the safe transit of emergency services.

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 safety zone 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 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 an SLR lasting approximately 6 days that would supplement existing Coast Guard authorities to manage traffic and existing navigation rules for the expected vessel concentrations associated with a high spectator marine event. 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. 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-2025-0463 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 in the docket 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 eRulemaking 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 discussed 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. Add § 100.T599-0463 to read as follows:

§ 100.T599-0463 100th Annual Pony Roundup, Swim & Auction, Chincoteague Island and Surrounding Waters, Virginia.

- (a) *Regulated area.* The regulations in this section apply to the following area:

The navigable waters of Assateague Channel from shoreline to shoreline, bounded to the east by a line drawn from latitude 37°55'01" N, longitude 075°22'40" W, thence south to latitude 37°54'50" N, longitude 075°22'46" W; and to the southwest by a line drawn from latitude 37°54'54" N, longitude 075°23'00" W, thence east to latitude 37°54'49" N, longitude 075°22'49" W.

- (b) *Buffer zone.* All navigable waters from surface to bottom, encompassed by a boundary line connecting the following four points beginning 37 57' N, 075 27' W; then to 37 57' N, 075 21' W; thence to 37 52' N, 075 21' W; then to 37 52' N, 075 27' W and back to the beginning point. All coordinates in this rule are based on WGS 84.

- (c) *Definitions.* As used in this section—

Buffer zone means a neutral area that surrounds the perimeter of the regulated area. The buffer zone provides separation between the regulated area and vessels that are operating in the vicinity of the regulated area for a marine event. The purpose of a buffer zone is to minimize potential collision conflicts between participants, participants and non-participants, or between participants and non-participants with nearby transiting vessels. While non-participant vessels may operate within the buffer zone, they must abide by the provisions of paragraph (d)(4) ("Approaching Bridge Foundations").

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 Virginia (COTP) in the enforcement of the regulations in this section.

Participant means any person or vessel registered with the event sponsor as a participant in the event.

(d) *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 Captain of the Port, Sector Virginia or their designated representative.

(2) To seek permission to enter or transit the Regulated Area, 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 Event PATCOM or official patrol vessel may forbid and control the movement of all persons and vessels in the buffer zone described in paragraph (b) or regulated area described in paragraph (a). When hailed or signaled by an official patrol vessel, the person or vessel being hailed must immediately comply with all directions given. Failure to do so may result in expulsion from the buffer zone, citation for failure to comply, or both.

(4) Any vessel operating beneath a bridge anywhere within the regulated area or the buffer zone must make a direct, immediate and expeditious passage beneath the bridge while remaining within the navigable channel. No vessel may stop, moor, anchor or loiter beneath a bridge at any time. No vessel may approach within a 25-yard radius of any bridge foundation, support, stanchion, pier or abutment except as required for the direct, immediate and expeditious transit beneath a bridge.

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

(e) *Enforcement period.* This section will be enforced 24 hours a day starting at 6 a.m. on July 26, 2025 and ending at 10 p.m. on August 1, 2025.

Dated: June 4, 2025.

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

[FR Doc. 2025-10938 Filed: 6/13/2025 8:45 am; Publication Date: 6/16/2025]