



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2012-0071]

RIN 1625-AA08

Special Local Regulation for Marine Event; Temporary Change of Dates for Recurring Marine Events in the Fifth Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule with request for comments.

SUMMARY: The Coast Guard is temporarily changing the enforcement periods of special local regulations for recurring marine events in the Fifth Coast Guard District. These regulations apply to three recurring marine events that conduct a rowing regatta and power boat races. Special local regulations are necessary to provide for the safety of life on navigable waters during these events. This action is intended to restrict vessel traffic in a portion of the Severn River at Annapolis, MD, the Nanticoke River at Sharptown, MD, and Prospect Bay at Kent Island, MD during the events.

DATES: This rule is effective from March 24, 2012 through July 15, 2012. Comments and related material must reach 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-2012-0071 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, D.C. 20590-0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary interim rule, call or e-mail Ronald L. Houck, Sector Baltimore Waterways Management Division,

Coast Guard; telephone 410-576-2674, e-mail
Ronald.L.Houck@uscg.mil. If you have questions on viewing
or submitting material to the docket, call Renee V. Wright,
Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by
submitting comments and related materials. All comments
received will be posted, without change, to
<http://www.regulations.gov> and will include any personal
information you have provided.

Submitting comments:

If you submit a comment, please include the docket
number for this rulemaking (USCG-2012-0071), indicate the
specific section of this document to which each comment
applies, and provide a reason for each suggestion or
recommendation. You may submit your comments and material
online (via <http://www.regulations.gov>) or by fax, mail or
hand delivery, but please use only one of these means. If
you submit a comment online via www.regulations.gov, it
will be considered received by the Coast Guard when you
successfully transmit the comment. If you fax, hand
delivery, or mail your comment, it will be considered as
having been received by the Coast Guard when it is received

at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG-2012-0071" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this rule based on your comments.

Viewing comments and documents:

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the

"Keyword" box insert "USCG-2012-0071" and click "Search."
Click the "Open Docket Folder" in the "Actions" column.
You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, D.C. 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act:

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the Federal Register (73 FR 3316).

Public Meeting:

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time

and place announced by a later notice in the Federal Register.

Regulatory Information

The Coast Guard is issuing this temporary interim 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 delaying the effective date by first publishing an NPRM would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, patrol vessels, spectator craft and other vessels transiting the event areas. The potential dangers posed by persons and vessels operating in close proximity to relatively small rowing vessels and high-powered racing vessels in restricted waterways make special local regulations necessary. However, the Coast Guard will provide advance notifications to users of the effected

waterways via marine information broadcasts and local notice to mariners. In addition, publishing an NPRM is unnecessary because these events are annual events which mariners should be aware of taking place, as they are noticed in the Federal Register. If mariners had concerns about these events taking place, they are on notice throughout the year of the events and can object to or comment about the events at any time. When the NPRM, including the table to §100.501 listing all of the annual events, was made available for comment, there were no objections to these events.

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. The potential dangers posed by persons and vessels operating in close proximity to relatively small rowing vessels and high-powered racing vessels in a restricted waterways make special local regulations necessary. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, patrol vessels, spectator craft and other vessels transiting the event area. In addition, publishing an NPRM is unnecessary because these events are annual events which mariners should be aware of taking

place, as they are noticed in the Federal Register. If mariners had concerns about these events taking place, they are on notice throughout the year of the events and can object to or comment about the events at any time. When the NPRM, including the table to §100.501 listing all of the annual events, was made available for comment, there were no objections to these events.

Basis and Purpose

Marine events are frequently held on the navigable waters within the boundary of the Fifth Coast Guard District. The activities that typically comprise marine events include: sailing regattas, power boat races, swim races and holiday parades. The regulation listing annual marine events within the Fifth Coast Guard District and their regulated dates is 33 CFR 100.501. A table to §100.501 identifies marine events by Captain of the Port zone. For a description of the geographical area of each Coast Guard Sector - Captain of the Port Zone, please see 33 CFR 3.25.

Because event planners notified the Coast Guard of date changes to three marine events previously published in the special local regulations for recurring marine events within the Fifth Coast Guard District at 33 CFR 100.501, Table to § 100.501, this regulation temporarily changes the

enforcement periods for these three marine events in 2012 only.

The first event is the annual "USNA Crew Races," sponsored by the U.S. Naval Academy, on the waters of the Severn River at Annapolis, MD. The regulation at 33 CFR 100.501 is effective annually for the USNA Crew Races marine events. The events consist of collegiate rowing competitions on the waters of the Severn River in Annapolis, Maryland. Participants operate on 2,000-meter marked courses with sponsor-provided motor launches. Therefore, to ensure the safety of participants and support vessels, 33 CFR 100.501 is enforced for the duration of the event. Currently, under the provisions of 33 CFR 100.501, from 6 a.m. to 9:30 a.m. on March 24, 2012, vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander. Vessel traffic may be allowed to transit the regulated area only when the Patrol Commander determines it is safe to do so.

The second event is the annual "Bo Bowman Memorial—Sharptown Regatta," sponsored by the Virginia/Carolina Racing Association, on the waters of the Nanticoke River at Sharptown, MD. The regulation at 33 CFR 100.501 is effective annually for the Bo Bowman Memorial—Sharptown Regatta marine event. The event consists of two days of

power boat racing on the waters of the Nanticoke River, at Sharptown, Maryland. High performance power boats will race on a designated course before a large fleet of spectator crafts. Therefore, to ensure the safety of participants and support vessels, 33 CFR 100.501 is enforced for the duration of the event. Currently, under the provisions of 33 CFR 100.501, from 9 a.m. to 6 p.m. on July 14, 2012 and from 9 a.m. to 6 p.m. on July 15, 2012, vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander. Vessel traffic may be allowed to transit the regulated area only when the Patrol Commander determines it is safe to do so.

The third event is the annual "Thunder on the Narrows", sponsored by the Kent Narrows Racing Association, on the waters of Prospect Bay at Kent Island, MD. The regulation at 33 CFR 100.501 is effective annually for the Thunder on the Narrows marine event. The event consists of two days of power boat racing on the waters of Prospect Bay, at Kent Island, Maryland. High performance power boats will race on a designated course before a large fleet of spectator crafts. Therefore, to ensure the safety of participants and support vessels, 33 CFR 100.501 is enforced for the duration of the event. Currently, under the provisions of

33 CFR 100.501, from 9:30 a.m. to 6:30 p.m. on June 9, 2012 and from 9:30 a.m. to 6:30 p.m. on June 10, 2012, vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander. Vessel traffic may be allowed to transit the regulated area only when the Patrol Commander determines it is safe to do so.

Discussion of Rule

The Coast Guard is temporarily changing the enforcement periods of special local regulations for recurring marine events within the Fifth Coast Guard District published at 33 CFR 100.501. This temporary interim rule only applies to the marine events below.

Severn River, Annapolis, MD.

The Table to § 100.501, event No. (b.)2 establishes the enforcement date for the USNA Crew Races. This regulation proposes to temporarily change the enforcement date from "March - last Friday, Saturday and Sunday; April and May- every Friday, Saturday and Sunday" to "March 24, 2012, April 14, 2012 and April 21, 2012." The U.S. Naval Academy, which is the sponsor for this event, intends to hold this event annually; however, they have changed the date of the event for 2012 so that it is outside the scope of the existing enforcement period. Due to the need for vessel control while participating rowing vessels are

racing on the Severn River, vessel traffic would be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Nanticoke River, Chestertown, MD.

The Table to § 100.501, event No. (b.)10 establishes the enforcement date for the Bo Bowman Memorial–Sharptown Regatta. This regulation proposes to temporarily change the enforcement date from “June - last Saturday and Sunday” to “July 14 and 15, 2012.” The Virginia/Carolina Racing Association, which is the sponsor for this event, intends to hold this event annually; however, they have changed the date of the event for 2012 so that it is outside the scope of the existing enforcement period. Due to the need for vessel control while high performance power boats are racing on the Nanticoke River, vessel traffic would be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Prospect Bay, Kent Island, MD.

The Table to § 100.501, event No. (b.)11 establishes the enforcement date for the Thunder on the Narrows. This regulation proposes to temporarily change the enforcement date from “June–3rd, 4th or last Saturday and Sunday or August - 1st Saturday and Sunday” to “June 9 and 10, 2012.” The Kent Narrows Racing Association, which is the sponsor

for this event, intends to hold this event annually; however, they have changed the date of the event for 2012 so that it is outside the scope of the existing enforcement period. Due to the need for vessel control while high performance power boats are racing on Prospect Bay, vessel traffic would be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Regulatory Analyses

We developed this interim rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. Although this rule prevents traffic from transiting a portion of certain waterways during specified events, the effect of this regulation will not be significant due to the limited duration that the regulated areas will be in effect and the extensive advance notifications that will be made to the maritime community

via marine information broadcasts and local notices to mariners, so mariners can adjust their plans accordingly. Additionally, this rulemaking does not change the permanent regulated areas that have been published in 33 CFR 100.501, Table to § 100.501. In some cases, vessel traffic may be able to transit the regulated area when the Coast Guard Patrol Commander deems it is safe to do so. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. 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. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to operate, transit, or anchor in the areas where the marine

events are being held. This regulation will not have a significant impact on a substantial number of small entities because it will be enforced only during marine events that have been permitted by the Coast Guard Captain of the Port. The Captain of the Port will ensure that small entities are able to operate in the areas where events are occurring when it is safe to do so. In some cases, vessels will be able to safely transit around the regulated area at various times, and, with the permission of the Patrol Commander, vessels may transit through the regulated area. Before the enforcement period, the Coast Guard will issue maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

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.

Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use

voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which 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 applicable to organized marine events on the navigable waters of the United States that could negatively impact the safety 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, canoe and sail board racing. Under figure 2-1, paragraph (34)(h), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

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:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233

2. In Table to § 100.501:

a. Suspend lines No. (b.)2, No. (b.)10, and No.

(b.)11.

b. Add lines (b.)20, (b.)21, and (b.)22 to read as follows:

§ 100.501 Special Local Regulations; Recurring Marine Event in the Fifth Coast Guard District.

* * * * *

Table To § 100.501

[All coordinates listed in the Table to § 100.501 reference Datum NAD 1983.]

No.	Date	Event	Sponsor	Location
*	*	*	*	* * *
(b.) Coast Guard Sector Baltimore - COTP Zone				
*	*	*	*	* * *
20.	March 24, 2012, April 14, 2012 and April 21, 2012	USNA Crew Races	U.S. Naval Academy	All waters of the Severn River from shoreline to shoreline, bounded to the northwest by a line drawn from the south shoreline at latitude 39°00'38.9" N., longitude 076°31'05.2" W. thence to the north shoreline at latitude 39°00'54.7" N., longitude 076°30'44.8" W., this line is approximately 1300 yards northwest of the U.S. 50 fixed highway bridge. The regulated area is bounded to the southeast by a line drawn from the Naval Academy Light at latitude 38°58'39.5" N., longitude 076°28'49" W. thence southeast to a point 700 yards east of Chinks Point, MD, at latitude 38°58'1.9" N., longitude 076°28'1.7" W. thence northeast to Greenbury Point at latitude 38°58'29" N., longitude 076°27'16" W.

21.	July 14 and 15, 2012	Bo Bowman Memorial— Sharptown Regatta	Virginia/Carolina Racing Assn.	All waters of the Nanticoke River, near Sharptown, Maryland, between Maryland S.R. 313 Highway Bridge and Nanticoke River Light 43 (LLN-24175), bounded by a line drawn between the following points: southeasterly from latitude 38°32'46" N, longitude 075°43'14" W, to latitude 38°32'42" N, longitude 075°43'09" W, thence northeasterly to latitude 38°33'04" N, longitude 075°42'39" W, thence northwesterly to latitude 38°33'09" N, longitude 075°42'44" W, thence southwesterly to latitude 38°32'46" N, longitude 075°43'14" W.
22.	June 9 and 10, 2012	Thunder on the Narrows	Kent Narrows Racing Association	All waters of Prospect Bay enclosed by the following points: Latitude 38°57'52.0" N, longitude 076°14'48.0" W, to latitude 38°58'02.0" N, longitude 076°15'05.0" W, to latitude 38°57'38.0" N, longitude 076°15'29.0" W, to latitude 38°57'28.0" N, longitude 076°15'23.0" W, to latitude 38°57'52.0" N, longitude 076°14'48.0" W.
	*	*	*	* * *

Dated: February 23, 2012

Mark P. O'Malley
 Captain, U.S. Coast Guard
 Captain of the Port Baltimore

[FR Doc. 2012-5967 Filed 03/13/2012 at 8:45 am; Publication
 Date: 03/14/2012]