



**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

**[Docket Number USCG-2018-0577]**

**RIN 1625-AA08**

**Special Local Regulation; Choptank River, Talbot and Dorchester Counties, MD**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is establishing temporary special local regulations for certain navigable waters of the Choptank River. This action is necessary to provide for the safety of life on these waters near Oxford, MD, from October 7, 2018, through October 15, 2018, during a sailboat regatta. This regulation prohibits persons and vessels from being in the regulated area unless authorized by the Captain of the Port Maryland-National Capital Region or a designated representative.

**DATES:** This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through 5:30 p.m. on October 15, 2018. For the purposes of enforcement, actual notice will be used from 11:30 a.m. on October 7, 2018 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 <http://www.regulations.gov>, type USCG-2018-0577 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Mr. Ronald Houck, U.S. Coast Guard Sector Maryland-National Capital Region; telephone 410-576-2674, email [Ronald.L.Houck@uscg.mil](mailto:Ronald.L.Houck@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

**II. Background Information and Regulatory History**

On February 13, 2018, the Tred Avon Yacht Club of Oxford, MD, notified the Coast Guard through submission of a marine event application that from October 5, 2018, through October 15, 2018, it will be conducting a sailboat regatta, the 2018 Star World Championship on the Choptank River, in Talbot and Dorchester Counties, near Oxford, MD. Race activities on navigable waters are planned each afternoon of the regatta beginning on October 7th. In response, on August 17, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled "Special Local Regulation; Choptank River, Talbot and Dorchester Counties, MD" (83 FR 41029). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this

sailboat regatta. During the comment period that ended September 17, 2018, 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**. Due to the date of the event, it would be impracticable and contrary to the public interest to make the regulation effective 30 days after publication in the Federal Register. The regulation must be in place by October 7th in order to protect the public from the hazards associated with this sailing regatta. Therefore, the Coast Guard is making this rule effective immediately.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Maryland-National Capital Region (COTP) has determined that potential hazards associated with the sailboat regatta will be a safety concern for anyone intending to operate in or near the race area. The purpose of this rule is to protect event participants, spectators, and transiting vessels on specified waters of the Choptank River before, during, and after the scheduled event.

### **IV. Discussion of Comments, Changes, and the Rule**

As noted above, we received no comments on our NPRM published August 17, 2018. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a special local regulation to be enforced from 11:30 a.m. until 5:30 p.m., each day, from October 7, 2018, through October 15, 2018. The regulated area would cover all navigable waters of the Choptank River, within an area

bounded by the following coordinates: commencing at latitude 38°41'39.02" N, longitude 076°11'19.18" W, thence south to latitude 38°37'28.68" N, longitude 076°11'19.18" W, thence west to latitude 38°37'28.68" N, longitude 076°18'18.35" W, thence north to latitude 38°41'39.02" N, longitude 076°18'18.35" W, thence east to point of origin, located near Oxford, MD. This rule provides additional information about an area within the regulated area, the "Race Area." The duration of the special local regulations and size of the regulated area are intended to ensure the safety of life on these navigable waters before, during, and after sail boat races, scheduled from noon until 5 p.m. on October 7, 8, 9, 10, 11, 12, 13, 14, and 15, 2018. Except for participants and vessels already at berth, a person or vessel within the regulated area at the start of enforcement of this special local regulation must immediately depart the regulated area. A spectator must contact the Coast Guard Patrol Commander (PATCOM) to request permission to either enter or pass through the regulated area. The PATCOM can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz) and channel 22A (157.1 MHz). If permission is granted, the spectator may enter the regulated area or pass directly through the regulated area as instructed by PATCOM. A vessel within the regulated area must operate at a safe speed that minimizes wake. A spectator vessel must not loiter within the navigable channel while within the regulated area. Only participant vessels and official patrol vessels are allowed to enter the race area.

## **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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, duration and location of the regulated area. Vessel traffic will be able to safely transit around this regulated area, which would impact a small designated area of the Choptank River for 54 hours. The Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the status of the regulated area. Moreover, the rule will allow vessels to seek permission to enter the regulated area, and vessel traffic will be able to safely transit the regulated area once the PATCOM deems it safe to do so.

### 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 (Public Law 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 contact 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. If you believe this rule has implications for federalism or Indian tribes, please contact 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 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 and Commandant Instruction M16475.1D, 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 implementation of regulations within 33 CFR part 100 applicable to organized marine events on the navigable waters of the United States. The temporary regulated area will be enforced daily during a nine-day period during the sailboat regatta. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A Memorandum For Record for Categorically Excluded Actions supporting this determination is available in the docket where indicated under ADDRESSES.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact 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:

#### **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; 33 CFR 1.05-1.

2. Add § 100.501T05-0577 to read as follows:

**§ 100.501T05-0577 Special Local Regulation; Choptank River, Talbot and**

**Dorchester Counties, MD.**

(a) Definitions. As used in this section:

Captain of the Port (COTP) Maryland-National Capital Region means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region or any Coast Guard commissioned, warrant or petty officer who has been authorized by the COTP to act on the COTP's behalf.

Coast Guard Patrol Commander (PATCOM) means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Maryland-National Capital Region.

Official Patrol means a vessel assigned or approved by the Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

Participant means a person or vessel registered with the event sponsor as participating in the 2018 Star World Championship regatta or otherwise designated by the regatta's sponsor as having a function tied to the event.

Spectator means a person or vessel not registered with the event sponsor as a participant or assigned as an official patrol.

(b) Locations. All coordinates reference Datum NAD 1983.

(1) Regulated area. All navigable waters of the Choptank River, bounded by a line connecting the following coordinates: Commencing at latitude 38°41'39.02" N, longitude 076°11'19.18" W, thence south to latitude 38°37'28.68" N, longitude 076°11'19.18" W, thence west to latitude 38°37'28.68" N, longitude 076°18'18.35" W,

thence north to latitude 38°41'39.027" N, longitude 076°18'18.35" W, thence east to point of origin, located near Oxford, MD. The following location is within the regulated area:

(2) Race area. The race area is a circle in shape with its center located at position latitude 38°39'48.00" N., longitude 076°15'03.42" W. The area is bounded by a line measuring approximately 2.5 nautical miles in diameter.

(c) Special local regulations. (1) The COTP Maryland-National Capital Region or PATCOM may 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 patrol. Failure to do so may result in the Coast Guard expelling the person or vessel from the area, issuing a citation for failure to comply, or both. The COTP Maryland-National Capital Region or PATCOM may terminate the event, or a participant's operations at any time the COTP Maryland-National Capital Region or PATCOM believes it necessary to do so for the protection of life or property.

(2) Except for participants and vessels already at berth, a person or vessel within the regulated area at the start of enforcement of this section must immediately depart the regulated area.

(3) A spectator must contact the PATCOM to request permission to either enter or pass through the regulated area. The PATCOM, and official patrol vessels enforcing this regulated area, can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz) and channel 22A (157.1 MHz). If permission is granted, the spectator may enter the regulated area or pass directly through the regulated area as instructed by PATCOM. A vessel within the regulated area must operate at a safe speed that minimizes wake. A

spectator vessel must not loiter within the navigable channel while within the regulated area.

(4) Only participant vessels and official patrol vessels are allowed to enter the race area.

(5) A person or vessel that desires to transit, moor, or anchor within the regulated area must first obtain authorization from the COTP Maryland-National Capital Region or PATCOM. A person or vessel seeking such permission can contact the PATCOM on Marine Band Radio, VHF-FM channel 16 (156.8 MHz).

(6) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF-FM marine band radio announcing specific event date and times.

(d) Enforcement periods. This section will be enforced during each of the following times:

- (1) From 11:30 a.m. until 5:30 p.m. on October 7, 2018.
- (2) From 11:30 a.m. until 5:30 p.m. on October 8, 2018.
- (3) From 11:30 a.m. until 5:30 p.m. on October 9, 2018.
- (4) From 11:30 a.m. until 5:30 p.m. on October 10, 2018.
- (5) From 11:30 a.m. until 5:30 p.m. on October 11, 2018.
- (6) From 11:30 a.m. until 5:30 p.m. on October 12, 2018.
- (7) From 11:30 a.m. until 5:30 p.m. on October 13, 2018.
- (8) From 11:30 a.m. until 5:30 p.m. on October 14, 2018.
- (9) From 11:30 a.m. until 5:30 p.m. on October 15, 2018.

Dated: September 26, 2018

Joseph B. Loring,  
Captain, U.S. Coast Guard,  
Captain of the Port Maryland-National Capital Region.  
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