



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2024-0361]

RIN 1625-AA08

Special Local Regulation; Back River, Baltimore County, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish special local regulations to provide for the safety of life on certain waters of the Back River, in Baltimore County, MD. These regulations would be enforced during a high-speed power boat event and air show which will be held annually, on the 2nd, 3rd or 4th weekend (Friday, Saturday, and Sunday) in July. This proposed rulemaking would prohibit persons and vessels from being in the regulated area unless authorized by the Captain of the Port, Maryland-National Capital Region, or the Coast Guard Event Patrol Commander. 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-2024-0361 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 Petty Officer Hollie Givens, U.S. Coast Guard Sector Maryland-National Capital Region; telephone 410-576-2596, email MDNCRMarineEvents@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port, Sector Maryland-National Capital Region
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
PATCOM	Patrol Commander
§	Section
SLR	Special Local Regulations
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

Coast Guard regulations define "regatta or marine parade" as an organized water event of limited duration which is conducted according to a prearranged schedule. 33 CFR 100.05(a). And, as explained in 33 CFR 100.15, Coast Guard requires that an organization planning to hold a regatta or marine event apply for a permit if the event, by its nature, circumstances, or location, will introduce extra or unusual hazards to the safety of life on the navigable waters of the United States. These permits may be approved by the Coast Guard, or by the state in which the event is to take place, if there is a Coast Guard-State agreement in place. See 33 CFR 100.10. Upon the approval of an application, the Captain of the Port, Sector Maryland-National Capital Region (COTP) may promulgate such "Special Local Regulations" (SLR's) as he or she deems necessary to insure safety of life on the navigable waters immediately prior to, during, and immediately after the event. *See* 33 CFR 100.35(a).

Tiki Lee's Dock Bar of Sparrows Point, MD has submitted permit applications for

two separate but concurrently held annual events in previous years. These events are "Tiki Lee's Shootout on the River High Speed Power Boat" event, and "Tiki Lee's Shootout on the River Air Show." In the past, the Coast Guard has created temporary SLR's (which expire after a particular year's events have taken place) for the events. Because Tiki Lee's Dock Bar has indicated that it intends to continue to submit applications annually to hold these events (on the 2nd, 3rd or 4th, Friday, Saturday, and Sunday in July), however, we are proposing to incorporate the SLR into a permanent rule for these recurring events (33 CFR 100.501). Such permanent rule would not expire, but it would only be subject to enforcement during periods when the events are taking place. The Coast Guard would supplement the rule each year, when an application for the current year's events is approved, with a Notification of Enforcement providing specifics about enforcement times.

In "Tiki Lee's Shootout on the River High Speed Power Boat" event, approximately 40 participants compete with one another, completing individually-timed power boat speed runs on a designated, marked, linear course. The course is located in Baltimore County, Maryland, on the Back River, between Porter Point, to the south, and Stansbury Point, to the north. Both the power boat event and the air show are being held adjacent to Tiki Lee's Dock Bar, 4309 Shore Road, Sparrows Point, in Baltimore County, MD, but the speed power boat course area is different from the air show's aerobatic box. Among the hazards the high-speed power boat event pose are the chance that collisions will occur between event participants operating within, or adjacent to the navigation channel designated for the event, and non-participants traveling through that channel, or within approaches to local marinas, boat facilities and waterfront residential communities.

In "Tiki Lee's Shootout on the River Air Show," civilian and military aircraft perform an air show flying low, and at high speeds. Air show performers operate within

a designated, marked aerobatics box located on the Back River, between Lynch Point, to the south, and Walnut Point, to the north. Hazards from the air show which would threaten people in vessels traveling in the area if such vessels were allowed to do so without restriction include risks of injury or death resulting from aircraft accidents, being hit by dangerous projectiles or falling debris, and the chance that spectators and through traffic distracted by the air show would collide. Hazards to the environment in the event of a collision include hazardous materials spills.

The COTP Maryland-National Capital Region has determined that the potential hazards associated with the high-speed power boat event and air show would be a safety concern for anyone intending to participate in this event and for vessels that operate within specified waters of the Back River. The purpose of this rulemaking is to protect event participants, non-participants, and transiting vessels before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70041.

III. Discussion of Proposed Rule

The COTP proposes to establish special local regulations which may be subject to enforcement in a particular year on the 2nd, 3rd or 4th weekend (Friday, Saturday, and Sunday) in July. The regulated area for both events would cover all navigable waters of the Back River within an area which is approximately 4,200 yards in length and 1,200 yards in width. It is described with particularity in the draft regulatory text, below. The regulated area is Within the regulated area, specific zones would be designated as a "Course Area," a "Buffer zone," an "Aerobatics Box," and three "Spectator Areas," the "East Spectator Fleet Area," the "Northwest Spectator Fleet Area," and the Southwest Spectator Fleet Area." These are defined in the draft regulatory text, below. We have filed chartlets in the docket which depict these areas visually to aid commenters, but only the language of the draft regulatory text would be included in the regulation. To access

documents mentioned as being available in the docket, go to section V of this document ("Public Participation and Request for Comments").

While there are two separate events and while both are held on the same weekends, the two events will not necessarily occur at the same time, or on the same days. Historically, the air show has occurred on Friday, Saturday, and Sunday, while the high-speed power boat runs have occurred on Saturday, with a rain date of Sunday. On Saturday, when both events occur, the high-speed power boat runs have been halted at 2 p.m. to accommodate the air show. The speed runs then have then resumed at 3pm and continue until they have finished.

The proposed enforcement periods and the size of the regulated area were chosen to ensure the safety of life on these navigable waters before, during, and after activities associated with the high-speed power boat event and air show. As is now provided in 33 CFR 10.501(a), the Coast Guard would publish an annual notification of enforcement (identifying the overall enforcement periods and periods of enforcement of particular zones within the regulated area) in the Federal Register, provide 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 dates and times.

Consistent with 33 CFR 100.35(a), the COTP and the Coast Guard Event PATCOM would have authority to forbid or 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 would be required to immediately comply with the directions given by the COTP or Event PATCOM, as is now provided in 33 CFR 100.501(d). If a person or vessel fails to follow such directions, the Coast Guard may expel them from the area, issue them a citation for failure to comply, or both.

Only participant vessels would be allowed to enter the course area and aerobatics

box. Except for Tiki Lee's Shootout on the River participants and vessels already at berth, a vessel or person would be required to get permission from the COTP or Event PATCOM before entering the regulated area. Vessel operators would be able to request permission to enter and transit through the regulated area by contacting the Event PATCOM on VHF-FM channel 16. Operators of vessels already at berth desiring to move those vessels when the event is subject to enforcement would be required to obtain permission before doing so.

If permission is granted by the COTP or Event PATCOM, a person or vessel would be allowed to enter the regulated area or pass directly through the regulated area as instructed. Vessels would be required to operate at a safe speed that minimizes wake while within the regulated area in a manner that would not endanger event participants or any other craft.

A person or vessel not registered with the event sponsor as a participant or assigned as official patrols would be considered a spectator. A spectator vessel must not loiter within the navigable channel while within the regulated area. Official patrol vessels would direct spectators to the designated spectator area. Official Patrols are any vessel assigned or approved by the Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer onboard and displaying a Coast Guard ensign. Official Patrols enforcing this regulated area can be contacted on VHF-FM channel 16 and channel 22A.

This proposed rule would modify 33 CFR 100.501 by listing a new recurring marine event in Table 2 to Paragraph (i)(2), which covers the Coast Guard Sector Maryland-National Capital Region COTP Zone. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70041.

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, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size and duration of the regulated area, which would impact a small, designated area of Back River. This waterway supports mainly recreational vessel traffic, which at its peak, occurs during the summer season. Although this regulated area extends across the entire width of the waterway, the rule would allow vessels and persons to seek permission to enter the regulated area, and vessel traffic would be able to transit the regulated area as instructed by Event PATCOM. Such vessels must operate at safe speed that minimizes wake and not loiter within the navigable channel while within the regulated area. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the status of 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 regulated area 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 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. 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.

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.

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- 2024-0361 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 eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

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 is proposing 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 4 to paragraph (i)(2) by adding a new entry in alphabetical order to read as follows:

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

* * * * *

(i) * * *

(2) * * *

Table 2 to Paragraph (i)(2)

Event	Regulated area	Enforcement Period(s)	Sponsor
**	**	**	*
Tiki Lee's Shootout on the River High Speed Power Boat Event and Air Show	<i>Regulated area.</i> All navigable waters of Back River, within an area bounded by a line connecting the following points: from the shoreline at Lynch Point at latitude 39°14'46" N, longitude 076°26'23" W, thence northeast to Porter Point at latitude 39°15'13" N, longitude 076°26'11" W, thence north along the shoreline to Walnut Point at latitude 39°17'06" N, longitude 076°27'04" W, thence southwest to the shoreline at latitude 39°16'41" N, longitude 076°27'31" W, thence south along the shoreline to and terminating at the point of origin. The course area, aerobatics box and spectator areas are within the regulated area.	This section will be enforced on the 2nd, 3rd or 4th, Friday, Saturday, and Sunday in July. A Notification of Enforcement will be published 30 days prior to the event dates with specified enforcement times.	Tiki Lee's Dock Bar of Sparrows Point, MD
	<i>Course Area.</i> The course area is a polygon in shape measuring approximately 1,400 yards in length by 50 yards in width. The area is bounded by a line commencing at position latitude 39°16'14.98" N, longitude 076°26'57.38" W, thence east to latitude 39°16'15.36" N, longitude 076°26'55.56" W, thence south to latitude 39°15'33.40" N, longitude 076°26'49.70" W, thence west to latitude 39°15'33.17" N, longitude 076°26'51.60" W, thence north to and terminating at the point of origin.		
	<i>Buffer Zone.</i> The buffer zone is a polygon in shape measuring		

	<p>approximately 100 yards in east and west directions and approximately 150 yards in north and south directions surrounding the entire course area described in the preceding paragraph of this section. The area is bounded by a line commencing at position latitude 39°16'18.72" N, longitude 076°27'01.74" W, thence east to latitude 39°16'20.36" N, longitude 076°26'52.39" W, thence south to latitude 39°15'29.27" N, longitude 076°26'45.36" W, thence west to latitude 39°15'28.43" N, longitude 076°26'54.94" W, thence north to and terminating at the point of origin.</p>		
	<p><i>Aerobatics Box.</i> The aerobatics box is a polygon in shape measuring approximately 5,000 feet in length by 1,000 feet in width. The area is bounded by a line commencing at position latitude 39°16'01.2" N, longitude 076°27'05.7" W, thence east to latitude 39°16'04.7" N, longitude 076°26'53.7" W, thence south to latitude 39°15'16.9" N, longitude 076°26'35.2" W, thence west to latitude 39°15'13.7" N, longitude 076°26'47.2" W, thence north to and terminating at the point of origin.</p>		
	<p><i>East Spectator Fleet Area.</i> The area is a polygon in shape measuring approximately 2,200 yards in length by 450 yards in width. The area is bounded by a line commencing at position latitude 39°15'20.16" N, longitude 076°26'17.99" W, thence west to latitude 39°15'17.47" N, longitude 076°26'27.41" W, thence north to latitude 39°16'18.48" N, longitude 076°26'48.42" W, thence east to latitude 39°16'25.60" N, longitude 076°26'27.14" W, thence south to latitude 39°15'40.90" N, longitude 076°26'31.30" W, thence south to and terminating at the point of origin.</p>		
	<p><i>Northwest Spectator Fleet Area.</i> The area is a polygon in shape measuring</p>		

	<p>approximately 750 yards in length by 150 yards in width. The area is bounded by a line commencing at position latitude 39°16'01.64" N, longitude 076°27'11.62" W, thence south to latitude 39°15'47.80" N, longitude 076°27'06.50" W, thence southwest to latitude 39°15'40.11" N, longitude 076°27'08.71" W, thence northeast to latitude 39°15'45.63" N, longitude 076°27'03.08" W, thence northeast to latitude 39°16'01.19" N, longitude 076°27'05.65" W, thence west to and terminating at the point of origin.</p>		
	<p><i>Southwest Spectator Fleet Area.</i> The area is a polygon in shape measuring approximately 400 yards in length by 175 yards in width. The area is bounded by a line commencing at position latitude 39°15'30.81" N, longitude 076°27'05.58" W, thence south to latitude 39°15'21.06" N, longitude 076°26'56.14" W, thence east to latitude 39°15'21.50" N, longitude 076°26'52.59" W, thence north to latitude 39°15'29.75" N, longitude 076°26'56.12" W, thence west to and terminating at the point of origin.</p>		
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Dated: April 24, 2024.

David E. O'Connell,
 Captain, U.S. Coast Guard,
 Captain of the Port, Sector Maryland-National Capital Region.