



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: Final rule.

SUMMARY: The Coast Guard is establishing special local regulations to provide for the safety of life on certain waters of the Back River, in Baltimore County, MD. These regulations will 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 rulemaking prohibits 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.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. A notification of enforcement will be published prior to the event dates each year with specified enforcement dates and times.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2024-0361 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email 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 Information and Regulatory History

Over the years, Tiki Lee's Dock Bar of Sparrows Point, MD has submitted permit applications under 33 CFR 100.15 for two separate, but concurrently held, annual events in the Back River. 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." 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). In response, the Coast Guard published a notice of proposed rulemaking (NPRM) titled "Special Local Regulation; Back River, Baltimore County, MD," 89 FR 34173 (April 30, 2024). There, we explained why we had issued the NPRM and we invited comments on our proposed regulatory action related to this event. During the comment period that ended May 30, 2024, we received one comment.

III. Legal Authority and Need for Rule

The COTP, Maryland-National Capital Region has determined that the potential hazards associated with the high-speed power boat event and air show will present safety concerns for anyone participating in this event and for spectator vessels and non-affiliated vessels operating within nearby waters of the Back River. The purpose of this rule is to

protect event participants, non-participants, and transiting vessels before, during, and after the scheduled event. The Coast Guard is promulgating this rule under authority in 46 U.S.C. 70041.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received one comment on our NPRM published April 30, 2024. This comment discusses the alleged targeting of oystermen and does not address issues within the scope of our published NPRM. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

The COTP is establishing 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, depending on when the boat race and air show are held. The regulated area for both events covers all navigable waters of the Back River within an area which is approximately 4,200 yards in length and 1,200 yards in width. Within the regulated area, specific zones are designated as a "Course Area," a "Buffer zone," an "Aerobatics Box," and three "Spectator Areas." These are the "East Spectator Fleet Area," the "Northwest Spectator Fleet Area," and the Southwest Spectator Fleet Area."

Consistent with 33 CFR 100.35(a), the COTP is promulgating this regulation, which provides that he or she and the Coast Guard Event PATCOM 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 will 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.

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. This rule 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, this rule 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 regulated area, which would only 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, one that minimizes wake, and they must not loiter within the navigable channel while within the regulated area. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via

VHF-FM marine channel 16 about the enforcement 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 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.

Consistent with § 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we will assist small entities in understanding this rule. If the rule may 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.

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.

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, 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 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 that could negatively impact the safety of waterway users and shore side activities in the event area. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

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.

List of Subjects in 33 CFR Part 100

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR 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 an entry in alphabetical order for “Tiki Lee’s Shootout on the River High Speed Power Boat Event and Air Show” to read as follows:

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

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(i) ***

(2) ***

Table 2 to Paragraph (i)(2)

Event	Regulated area	Enforcement Period(s)	Sponsor
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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.		
	<p><i>Buffer zone.</i> The buffer zone is a polygon in shape measuring 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,</p>		

	<p>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 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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Patrick C. Burkett,
 Captain, U.S. Coast Guard,
 Captain of the Port, Sector Maryland-National Capital Region.

