

**§ 4.5 Government vessels.**

(a) *Exemptions from reports of arrival and entry.*—(1) *Vessels owned by the United States.* No report of arrival or entry will be required of any vessel:

(i) Owned by or under the complete control and management of the United States or any of its agencies;

(ii) Manned wholly by members of the uniformed services of the United States, or by personnel in the civil service of the United States, or by both; and

(iii) Either in ballast or transporting only property of the United States and/or passengers traveling on official business of the United States.

(2) *Additional DoD-owned vessels.* For DoD-owned vessels not meeting the requirements of paragraph (a)(1) of this section, no report of arrival or entry will be required if the vessel is:

(i) Owned by or under the complete control and management of the U.S. Department of Defense (DoD);

(ii) Manned wholly by members of the uniformed services of the United States, or by personnel in the civil service of the United States, or by both; and

(iii) Either in ballast or transporting only passengers and/or cargo approved for carriage in the Defense Transportation System (DTS), as defined in § 4.0(h) of this part.

(3) *DoD-chartered vessels.* (i) *Entry exemption.* Entry will not be required of any vessel chartered by DoD, manned entirely by the civilian crew of the vessel carrier under contract to DoD, and carrying only passengers and/or cargo approved for carriage in the DTS.

(ii) *Clearance requirement.* Notwithstanding § 4.60(b)(3) of this part, no DoD-chartered vessel operated as provided in this paragraph (a)(3) is exempt from vessel clearance requirements.

(iii) *Cargo declaration requirement upon arrival.* If any cargo is on board a DoD-chartered vessel, the master or commander of the DoD-chartered vessel arriving from abroad must file a Cargo Declaration, CBP Form 1302, or an equivalent form issued by DoD, in duplicate. The original of each Cargo Declaration or equivalent form required under this paragraph must be filed with the port director within 48 hours after the arrival of the vessel. The other copy must be made available for use by the discharging officer at the pier and must be presented upon arrival of the vessel. See § 148.73 of this chapter with respect to baggage on carriers operated by DoD.

(b) *Non-exempt vessels.* The arrival of every vessel owned or controlled and manned as described in paragraph (a) of this section but transporting property or passengers other than property of the United States, passengers traveling on

official business of the United States, or passengers and/or cargo approved for carriage in the DTS, and every vessel so owned or controlled, but not so manned, whether in ballast or transporting cargo or passengers, must be reported in accordance with § 4.2 and the vessel must make formal entry in accordance with § 4.9.

(c) *Foreign government vessels.* Every vessel owned by, or under the complete control and management of, any foreign nation will be exempt from or subject to the laws relating to report of arrival and entry under the same conditions as a vessel owned by or controlled by the United States, as described in paragraph (a)(1) of this section.

**PART 122—AIR COMMERCE REGULATIONS**

4. The general authority citation for part 122 continues to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

5. Amend § 122.1 by adding paragraph (n) to read as follows:

**§ 122.1 General definitions.**

\* \* \* \* \*

(n) *Defense Transportation System (DTS).* The Defense Transportation System (DTS) is the transportation system controlled by the Department of Defense (DoD) under which DoD manages the secure shipment of cargo and personnel in peace and war. It is administered pursuant to DoD Directive 4500.09E.

6. Amend § 122.41 as follows:

a. Revise paragraph (b);

b. Redesignate paragraph (c) as paragraph (d); and

c. Add new paragraph (c).

The revision and addition read as follows:

**§ 122.41 Aircraft required to enter.**

\* \* \* \* \*

(b) Aircraft owned by or under the complete control and management of the U.S. Department of Defense (DoD), if the aircraft is:

(1) Manned entirely by members of the armed forces or civil service of the United States; and

(2) Transporting only passengers and/or cargo approved for carriage in the Defense Transportation System (DTS), as defined in § 122.1(n) of this part.

(c) Aircraft chartered by DoD, if the aircraft is:

(1) Manned entirely by the civilian crew of the air carrier under contract to DoD; and

(2) Transporting only passengers and/or cargo approved for carriage in the DTS.

\* \* \* \* \*

Dated: February 3, 2012.

**Janet Napolitano,**  
*Secretary.*

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**BILLING CODE 9111-14-P**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 100**

[Docket No. USCG-2011-1176]

RIN 1625-AA08

**Special Local Regulations for Marine Events; Potomac River, Charles County, MD**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish special local regulations during the “Potomac River Sharkfest Swim” amateur swim, a marine event to be held on the waters of the Potomac River on June 2, 2012. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to temporarily restrict vessel traffic in a portion of the Potomac River during the event.

**DATES:** Comments and related material must be received by the Coast Guard on or before March 12, 2012. Requests for public meetings must be received by the Coast Guard on or before February 27, 2012.

**ADDRESSES:** You may submit comments identified by docket number USCG-2011-1176 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, DC 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 proposed rule, call or email Mr. Ronald Houck, U.S. Coast Guard Sector Baltimore, MD; telephone 410-576-2674, email [Ronald.L.Houck@uscg.mil](mailto: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-2011-1176), 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](http://www.regulations.gov), it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, 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 email 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-2011-1176" 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

comments 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 the 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-2011-1176" 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, DC 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 on or before the end of the comment period, 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**.

**Basis and Purpose**

On June 2, 2012, Enviro-Sports Productions, Inc. of Stinson Beach, California, will sponsor an amateur swim across the Potomac River between Newburg, Maryland and King George, VA. The event consists of up to 500 swimmers on a course located upriver and parallel to the Governor Harry W. Nice Memorial (US-301) Bridge. The swimmers will be supported by sponsor-provided watercraft. The start will be located along the shore at the Aqua-Land Marina and the finish will

be located along the shore at Dahlgren Wayside Park. A portion of the swim course will cross the federal navigation channel. Due to the need for vessel control during the event, the Coast Guard will temporarily restrict vessel traffic in the event area to provide for the safety of participants, spectators and other transiting vessels.

**Discussion of Proposed Rule**

The Coast Guard proposes to establish temporary special local regulations on specified waters of the Potomac River. The regulations will be in effect from 7 a.m. to 12:30 p.m. on June 2, 2012. The regulated area, approximately 3,800 yards in length and 900 yards in width, extends across the entire width of the Potomac River between the Maryland and Virginia shorelines and includes all waters of the Potomac River, within lines connecting the following positions: from latitude 38°22'05" N, longitude 076°59'03" W, thence to latitude 38°21'50" N, longitude 077°00'54" W, and from latitude 38°21'29" N, longitude 077°00'54" W to latitude 38°21'45" N, longitude 076°58'59" W. The effect of this proposed rule will be to restrict general navigation in the regulated area during the event. Vessels intending to transit the Potomac River through the regulated area will only be allowed to safely transit the regulated area when the Coast Guard Patrol Commander has deemed it safe to do so. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

**Regulatory Analyses**

We developed this proposed 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 proposed 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. We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. Although this regulation will prevent traffic from transiting a portion of the Potomac River during the event, the effect of this regulation will not be significant due to

the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners and marine information broadcasts, so mariners can adjust their plans accordingly. Additionally, the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic will be able to transit safely through a portion of the regulated area, but only after the last participant has cleared that portion of the regulated area and when the Coast Guard Patrol Commander deems it safe to do so.

#### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in the effected portions of the Potomac River during the event.

Although this regulation prevents traffic from transiting a portion of the Potomac River near the Governor Harry W. Nice Memorial (US–301) Bridge during the event, this proposed rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This proposed rule would be in effect for only a limited period. Though the regulated area extends across the entire width of the river, vessel traffic may be permitted to safely transit a portion of the regulated area, but only after all participants have safely cleared that portion of the regulated area and when the Coast Guard Patrol Commander deems it safe for vessel traffic to do so. All Coast Guard vessels enforcing this regulated area can be contacted on marine band radio VHF–FM channel 16 (156.8 MHz). Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity

and that this 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.

#### **Assistance for Small Entities**

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 so that they can better evaluate its effects on them and participate in the rulemaking. 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 Coast Guard Sector Baltimore, MD. 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.

#### **Collection of Information**

This proposed rule would call 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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### **Taking of Private Property**

This proposed rule would 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### **Indian Tribal Governments**

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.

#### **Energy Effects**

We have analyzed this proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which 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. 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. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed 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 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:** 33 U.S.C. 1233.

2. Add a temporary section, § 100.35T05-1176 to read as follows:

#### § 100.35T05-1176 Special Local Regulations for Marine Events; Potomac River, Charles County, MD.

(a) *Regulated area.* The following location is a regulated area: All waters of the Potomac River, within lines connecting the following positions: from latitude 38°22'05" N, longitude 076°59'03" W, thence to latitude 38°21'50" N, longitude 077°00'54" W, and from latitude 38°21'29" N, longitude 077°00'54" W to latitude 38°21'45" N, longitude 076°58'59" W. All coordinates reference Datum NAD 1983.

(b) *Definitions:* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(c) *Special local regulations:* (1) The Coast Guard Patrol Commander may forbid and control the movement of all vessels and persons in the regulated area. When hailed or signaled by an official patrol vessel, a vessel or person in the regulated area shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(2) Persons desiring to transit the regulated area must first obtain authorization from the Captain of the Port Baltimore or his designated representative. To seek permission to transit the area, the Captain of the Port Baltimore and his designated representatives can be contacted at telephone number 410-576-2693 or on Marine Band Radio, VHF-FM channel 16 (156.8 MHz). All Coast Guard vessels enforcing this regulated area can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz).

(3) 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 period:* This section will be enforced from 7 a.m. until 12:30 p.m. on June 2, 2012.

Dated: January 30, 2012.

**Mark P. O'Malley,**

*Captain, U.S. Coast Guard, Captain of the Port Baltimore.*

[FR Doc. 2012-2939 Filed 2-8-12; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R06-OAR-2008-0633; FRL-9628-5]

#### Approval and Promulgation of Implementation Plans; Arkansas; Infrastructure Requirements for the 1997 Ozone NAAQS and the 1997 and 2006 PM<sub>2.5</sub> NAAQS and Interstate Transport Requirements for the 1997 Ozone NAAQS and 2006 PM<sub>2.5</sub> NAAQS

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to partially approve and partially disapprove submittals from the state of Arkansas pursuant to the Clean Air Act (CAA or Act) that address the infrastructure elements specified in the CAA section 110(a)(2), necessary to implement, maintain, and enforce the 1997 8-hour ozone and the 1997 and 2006 fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS or standards). We are proposing to find that the current Arkansas State Implementation Plan (SIP) meets the following infrastructure elements for the 1997 8-hour ozone NAAQS and the 1997 and 2006 PM<sub>2.5</sub> NAAQS: 110(a)(2)(A), (B), (E), (F), (G), (H), (K), (L), (M), and portions of (C), (D)(ii) and (J). We are proposing to find that the current Arkansas SIP does not meet the infrastructure requirements for the 1997 8-hour ozone NAAQS and the 1997 and 2006 PM<sub>2.5</sub> NAAQS at 110(a)(2) for portions of (C), (D)(ii), and (J) because the EPA-approved SIP prevention of significant deterioration (PSD) program does not apply to greenhouse gas (GHG) emitting sources. We also are proposing to find that the current Arkansas SIP does not meet the infrastructure requirements for the 1997 and 2006 PM<sub>2.5</sub> NAAQS at 110(a)(2) for portions of (C), (D)(ii), and (J) because Arkansas has not submitted the PSD SIP revision required by EPA's Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (73 FR 28321, May 16, 2008). Further, we are proposing to partially approve and partially disapprove the provisions of SIP submissions that emissions from sources in Arkansas do not interfere with measures required in the SIP of any other state under part C of the CAA to prevent significant deterioration of air quality, with regard to the 1997 8-hour ozone NAAQS and the 2006 PM<sub>2.5</sub> NAAQS. The partial disapprovals herein are because Arkansas cannot