

**COMMENTS TO THE U.S. COAST GUARD FROM THE
CANOE CRUISERS ASSOCIATION OF GREATER WASHINGTON DC
REGARDING THE SECURITY ZONE ON THE
POTOMAC RIVER ADJACENT TO THE
TRUMP NATIONAL GOLF CLUB**

**Docket Number USCG–2017–0448
July 27th, 2017**

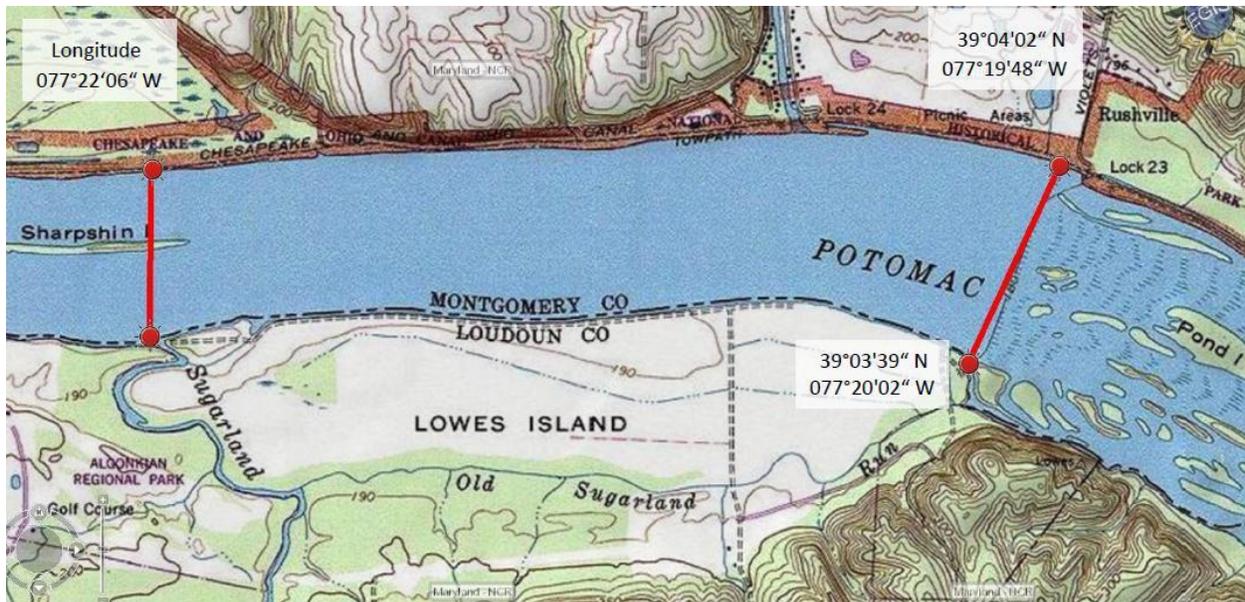
These comments are submitted on behalf of the Canoe Cruisers Association of Greater Washington DC (hereafter called CCA), founded in 1956, on behalf of our over 250 members. We are a non-profit kayak and canoe club whose main purpose is to unite persons interested in paddling the Potomac River and adjacent watersheds. We have been a leader in conservation, education and river safety for many decades.

The area in and immediately downstream from the proposed USCG security zone on the Potomac River (see Figure 1 below) as it passes by the Trump National Golf Club has been used for such both recreational and instructional purposes by CCA members, members of other paddling clubs and small business entities focused primarily on paddling instruction in this area, for over sixty years. CCA is actively engaged in activities on a daily and weekly basis that use the section of the Potomac River that is affected by this interim rule. Our club offers a range of recreational and training events including: weekly paddling trips; classes for beginner, novice and more advanced paddlers; ACA-certified instructor-training courses; and, Swift Water Rescue and Safety classes. Further, we coordinate conservation and river clean-up activities that help to maintain the health and beauty of the Potomac River and her tributaries, including the section in and around the Trump Golf Club that is the subject of this interim rule.

CCA shares the USCG's concern with the safety and security of the President, high-ranking officials and all other participants of events held at the Trump Golf Club. We are eager to work with the U.S. Coast Guard and other relevant officials to develop a Rule that will assure security needs, protect recreational access, and meet the needs of small business that operate in that area.

The Federal Register Number:2017-14395, announced an interim rule to establish a security zone encompassing certain waters of the Potomac River. The notice asserts that this action is meant to prevent waterside threats and incidents immediately before, during and after events held at the Trump National Golf Club at Potomac Falls, VA. As stated, this rule prohibits vessels and people from entering the security zone and requires vessels and persons in the security zone to depart the security zone, unless specifically exempt under the provisions in this rule or granted specific permission from the Coast Guard Captain of the Port Maryland-National Capital Region or designated representative.

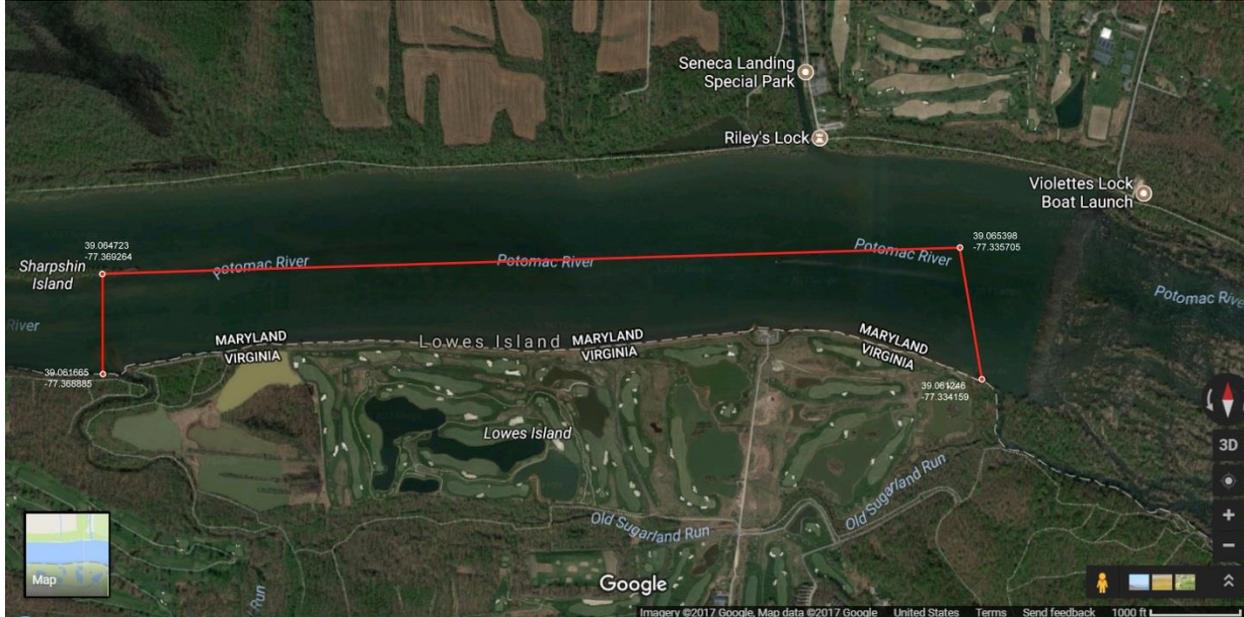
Figure 1: The No Access Zone Described in the Interim Rule



Current Security Practices Already Work

CCA is generally pleased with the security practices to date, where security personnel placed a periodic wide-birth and patrol area of about 100-200 yards off the Virginia shore in front of the Golf course with armed motor boats, a closed off area, and security forces. This permits recreational boaters and small business operators to launch at Riley's and Violette's Locks, continue to access about two-thirds of the river extending from the Maryland shoreline, ferry across the river with a reasonable margin of safety upstream of Seneca Breaks, and enter the George Washington Canal (GW Canal) on the VA shore at the downstream end of the Golf course and upstream of the Seneca Breaks (39.061109, -77.333708). This currently-implemented plan seems to us entirely reasonable (See Figure 2).

Figure 2: No Access Zone Currently Enforced and Recommended by CCA



Interim Rule Fails to Provide Meaningful Opportunity for Public Comment

Under the Administrative Procedure Act, 5 USCS § 553, an agency is required to provide a meaningful opportunity to comment on rulemakings.¹ A comment period is not meaningful if the agency does not issue a proposal, and does not respond to substantial points raised during the public comment period.² In this instance, the USCG has failed to issue a proposed rule for notice and comment, and has failed to provide an opportunity for meaningful comments since the rule is already interim final.

Therefore, CCA requests that the USCG withdraw this interim rule, and instead issue a proposed rule that is published in the FR to provide the public and interested persons a meaningful opportunity to provide comment – we suggest no less than 60 days. The notice and comment provisions of the Federal Administrative Procedures Act also require that an agency respond in a reasoned manner to the comments received (such as issuing a public ‘response to comments’ document), to explain to the public how problems are resolved, and how the resolution has led to the final rule.³

We are very pleased with recent news reports that the USCG has heard the concerns of CCA and others, and will be, “making accommodations for the public,” (AP July 25, 2107)⁴ While these public assurances are important, they are not legally binding now or in the future. We will therefore continue to advocate

¹ Hill v. Gould, 555 F.3d 1003 (D.C. Cir. 2009)

² North Carolina v. Federal Aviation Admin., 957 F.2d 1125 (4th Cir. N.C. 1992)

³ Ohio Valley Envtl. Coalition v. Hurst, 604 F. Supp. 2d 860 (S.D. W. Va. 2009)

⁴ Associated Press

<http://wtop.com/government/2017/07/coast-guard-paddlers-can-use-potomac-near-trump-golf-course/>
The Washington Post

<https://www.washingtonpost.com/local/virginia-politics/coast-guard-agrees-to-partial-opening-of-poto>
The DCist

http://dcist.com/2017/07/coast_reverses_course_says_potomac.php

that the USCG amend, rescind, or otherwise alter the current interim rule to provide public access as described in these comments and depicted in Figure 2.

The Interim Rule Is Overly Broad and Unnecessarily Impairs Recreational and Small Business Activities

The interim Rule extends the no-access security zone from the VA shore to the MD shore, and appears to also block access on and off the Potomac River from the C&O Canal's Violette's Lock access point. Violette's Lock on the C&O Canal provides access to the old Patowmack Canal (GW Canal) on the Virginia side of the river and to the Seneca Breaks rapids. The remains of the Patowmack Canal, built by George Washington to skirt the rapids, forms a very nice, shady set of rapids that are a favorite of paddlers of all skill levels. To access this area requires one to paddle across the river just above the old C&O Canal Dam #2 at the top of Seneca Breaks. The GW Canal area cannot be accessed by boaters from the Virginia side of the river.

Rule Threatens Boater Safety

Crossing the river just below the dam to reach the Virginia side is not feasible due to the Seneca Breaks rapids, which creates serious safety hazards for novice boaters including clients taking kayaking classes, kids enrolled in summer camps, recreational boaters including CCA members, people fishing and others. The dangers will increase with higher water levels such as occur for hours, days, or even a week after rainfall anywhere in the Potomac watershed.

Rule Impacts Small Businesses

The old Patowmack Canal (GW Canal) on the Virginia side of the river and Seneca Breaks rapids, immediately downstream of the proposed security zone, have provided irreplaceable locations, within easy reach of Washington DC, for instructing new paddlers in the skills of maneuvering different types of rapids, and doing so with considerable safety. For this reason, commercial paddling schools in the area, take new students out on the flatwater, into the GW Canal, and in and around the small rapids. Several commercial kayaking schools have operations in the area impacted by the rule, including Calleva, Liquid Adventures, Potomac River Outfitters, and others.

These same rapids have also provided equally irreplaceable locations to teach and to practice the skills of swiftwater rescue operations. The area impacted by this rule will impact commercial swiftwater rescue instructional activities, as well as classes taught by volunteers through local clubs including but not limited to CCA.

Rule Impacts Athlete Training Areas

The area affected by this Rule is regularly used as a training area for Olympic whitewater competitors and as a whitewater race venue. Olympic athletes from the US Whitewater Team use the GW Canal/Violette's Lock loop or paddle through the area daily as a necessary part of their training. Thus, blocking access to this river with the shore-to-shore no access zone described in the interim rule would severely impact recreation and small business operations. Maryland, particularly Montgomery County, sent several kayak athletes to the Olympics in Rio this past year and every one of them trained daily on the Potomac River including the stretch of water that is impacted by this rule.

Rule Impacts Team River Runner Activities for Wounded Veterans

Team River Runner is a non-profit organization dedicated to helping the Nation's wounded military veterans on their road to physical and emotional recovery. Teaching them to kayak has been an instrumental part of their program, giving wounded vets a chance to engage in a challenging physical

activity, build strong friendships through kayaking training and activities, help each other, and help themselves to gain strength and confidence. Team River Runner uses the area impacted by this rule every weekend because it has a range of flatwater and small rapids to help each veteran experience the challenges that are appropriate for everyone given their range of abilities.

Interim Rule Fails to Provide Adequate Public Notice of Impending Security Zone Enforcement

The interim rule stipulates that closures of the river will be announced to the public on VHF channel 16. While sea kayakers who paddle the ocean or Chesapeake Bay may carry hand held VHF marine radios, river paddlers and recreational boaters do not.

Campers and counselors who paddled down to an established campground located on an island below the security zone while it was not being enforced risk becoming stranded on the island, unable to paddle back to their boat-ramp, if a security zone enforcement-period is placed in-effect after they have reached their campground on the island.

People that set up car shuttles (with vehicles prepositioned both at the put-in point and at the take-out point) may not be able to get to their vehicles if they are unexpectedly denied river access after having set-out on their paddling trip.

CCA recommends that the USCG implement permanent two-way VHF communications between paddlers who have equipped themselves with hand-held radio units and Coast Guard controllers, even when no USCG patrol boat is on-station at the restricted zone. The ability to hail the Coast Guard from the shore of the security zone and ascertain whether an enforcement period was going to be placed in effect during the time that a paddling trip was planned would greatly reduce the likelihood that paddlers would unintentionally violate an actively-enforced security zone. A means of making permanent two-way communications possible might be to install two-way antennae on the roof of the golf course club house, which has excellent lines-of-sight with the Potomac.

CCA recommends that the USCG, perhaps with assistance from the US Park Service, post notifications of imminent security zone enforcement at both the Riley's Lock and the Violette's Lock boat-launching areas.

CCA recommends that the USGC place temporary flotation (buoys) or other easily visible markers on the water to let people know the mid-river boundary of the security zone. The interim rule fails to provide a clear zone along the Maryland side of the river so that paddlers who enter the river at Riley's Lock on the Maryland shore or Algonkian on the Virginia side, and paddle downriver, can safely pass through the security zone. This will make enforcement difficult – a problem that could be solved some visible buoys.

Interim Rule Is Ambiguous

The interim rule fails to describe a clear definition of how long a closure will extend. While we appreciate that the USCG and other security forces need some flexibility, the rule provides no boundaries at all. This is overly ambiguous and unfair to the public, small businesses, and others that use and care for this stretch of river. CCA recommends that the rule make clear that each notice can include no more than a day or two.

Recommendation to Limit the Size of the Security Zone

The security practices to date create a no-access zone of about 100-200 yards off the VA Shore in front of the Golf course. As enforced to date, this allows the public, small business operators, and others to enjoy recreating on the river, have adequate water access upstream and downstream of the Golf course, and safely enter and exit the GW canal and small rapids. CCA recommends that this practice be described in a new rule, with a no-access zone as shown in Figure 2.

Thank you for the opportunity to provide comments. We look forward to working with the USCG and others to ensure that security needs are met while addressing the public use of this active section of the Potomac River.

Respectfully,

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