

still be a Class II bingo machine. *Id.*; See also 103 *Electronic Gaming Devices*, 223 F.3d at 1098–99 (the 9th Circuit reached the same conclusion, holding “winning” does not necessarily mean “vanquishing” all other opponents, and identifying Congress’ intent to permit interim prizes, given that some traditional variants of bingo allow them.).

Nor does the fact that a game of bingo can be played with one touch of a button by itself transform the machines into a Class III electronic facsimile of the game of bingo. One touch bingo does not incorporate all of the characteristics of bingo. The machine, for example, does not replicate the competitive element of bingo. Players still compete with other players, not the machine.

Also, there is an exception for bingo in the regulatory definition of electronic facsimile, which exempts electronic bingo that broadens player participation by allowing multiple players to play with or against each other rather than with or against a machine. As this proposed reinterpretation finds that one touch bingo meets the statutory definition of the game of bingo and does not incorporate all the characteristics of bingo into the machine, the application of the exception is not necessary. However, the previous interpretation concluded “as it is applied to bingo, . . . the “except when” language of 502.8 [] require[s] some—even minimal participation in the game by the players above and beyond the mere pressing of a button to begin the game.” We find this interpretation in error because whether a game constitutes bingo or not cannot be reduced to the number of times a button is pushed. Rather, as set out above, we must look to whether the statutory elements of the game are met. And, as also set out above, we find that for one touch bingo they are. One touch bingo does incorporate player participation in the game beyond the pressing of a button.

Finally, the Commission should give consideration to an interpretation of bingo that embraces rather than stifles technological advancements in gaming. The Senate Select Committee on Indian Affairs affirmed in its report regarding the Indian Gaming Regulatory Act that it “intends that tribes be given the opportunity to take advantage of modern methods of conducting Class II games and the language regarding technology is designed to provide maximum flexibility.” S. Rep. No. 100–446 at p. A–9. In explaining its policy toward technology, a key distinction for the Committee was that technological aids are “readily distinguishable from the use of electronic facsimiles in which

a single participant plays a game with or against a machine rather than with or against other players.” *Id.* One touch bingo does not change that fundamental aspect of bingo. Whether played on a one or two touch machine in a linked system, the player is still competing with other bingo players for a prize.

For all of the above reasons, the NIGC proposes to reinterpret its position on one touch bingo, as previously set forth in the June 4, 2008 decision disapproving the Metlakatla Indian Community’s Tribal Gaming Ordinance.

Dated: June 19, 2013, Washington, DC.

**Daniel J. Little,**

*Commissioner.*

**Tracie L. Stevens,**

*Chairwoman.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket No. USCG–2013–0129]

RIN 1625–AA08

#### Special Local Regulations; Marine Events, Spa Creek and Annapolis Harbor, Annapolis, MD

**AGENCY:** Coast Guard, DHS.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The Coast Guard is withdrawing its proposed rule concerning amendments to the regattas and marine parades regulations. The rulemaking was initiated to establish special local regulations during the swim segment of the “TriRock Triathlon Series,” a marine event to be held on the waters of Spa Creek and Annapolis Harbor on July 20, 2013. The Coast Guard was notified on May 21, 2013, that the event had been cancelled.

**DATES:** The proposed rule is withdrawn on June 25, 2013.

**ADDRESSES:** The docket for this withdrawn rulemaking is available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to <http://www.regulations.gov>, inserting USCG–2013–0129 in the “SEARCH” box, and then clicking “Search.”

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this notice, call or email Mr. Ronald Houck, Waterways Management Division, Sector Baltimore, MD, U.S. Coast Guard; telephone 410–576–2674, email [Ronald.L.Houck@uscg.mil](mailto:Ronald.L.Houck@uscg.mil). If you have questions on viewing material in the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

#### SUPPLEMENTARY INFORMATION:

##### Background

On April 3, 2013, we published a notice of proposed rulemaking entitled “Special Local Regulations; Marine Events, Spa Creek and Annapolis Harbor, Annapolis, MD” in the **Federal Register** (78 FR 20066). The rulemaking concerned the Coast Guard’s proposal to establish temporary special local regulations on specified waters of Spa Creek and Annapolis Harbor at Annapolis, MD, effective from 6 a.m. to 9:30 a.m. on July 20, 2013. The regulated area included all waters of the Spa Creek and Annapolis Harbor, from shoreline to shoreline, bounded by a line drawn near the entrance of Spa Creek originating at latitude 38°58’40” N, longitude 076°28’49” W, thence south to latitude 38°58’32” N, longitude 076°28’45” W. The regulated area is bounded to the southwest by a line drawn from latitude 38°58’34” N, longitude 076°29’05” W thence south to latitude 38°58’27” N, longitude 076°28’55” W, located at Annapolis, MD. The regulations were needed to temporarily restrict vessel traffic during the event to provide for the safety of participants, spectators and other transiting vessels.

##### Withdrawal

The Coast Guard is withdrawing this rulemaking because the event has been cancelled.

##### Authority

We issue this notice of withdrawal under the authority of 33 U.S.C. 1233.

Dated: June 3, 2013.

**Kevin C. Kiefer,**

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

[FR Doc. 2013–15092 Filed 6–24–13; 8:45 am]

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