



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2019-0691]

RIN 1625-AA08

Special Local Regulations; Recurring Marine Events, Sector Charleston

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise existing regulations and consolidate into one table special local regulations for recurring marine events at various locations within the geographic boundaries of the Seventh Coast Guard District Captain of the Port (COTP) Charleston Zone. Consolidating marine events into one table simplifies Coast Guard oversight and public notification of special local regulations within COTP Charleston Zone. The Coast Guard invites 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-2019-0691 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LT Chad Ray, Sector Charleston Waterways Management Division, U.S. Coast Guard; telephone 843-740-3184, email Chad.L.Ray@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

Recurring race, swim, and other marine events within the Seventh Coast Guard District are currently listed in 33 CFR 100.701, Table to § 100.701. The process for amending the table (e.g. adding or removing marine events) is lengthy and inefficient since it includes recurring marine events for seven different COTP zones within the Seventh District. To expedite and simplify the rule-making process for new marine events/special local regulations, COTP's resorted to creating individual rules rather than amending the Table to § 100.701.

This rule serves two purposes: (1) create a table of recurring marine events/special local regulations occurring solely within the COTP Charleston Zone, and (2) consolidate into that table marine events/special local regulations previously established outside of Table to § 100.701. The proposed new table would facilitate management of and public access to information about marine events within the COTP Charleston Zone.

The Coast Guard proposes this rulemaking under authority in 46 U.S.C. 70041.

III. Discussion of Proposed Rule

This rule proposes to make the following changes:

1. Revise the contact information in § 100.701(d)(1) to read “Captain of the Port Charleston, South Carolina: (843) 740-7050.”;
2. Delete the existing special local regulation for the “Head of South” event listed in Table § 100.701(f)(5) because it is no longer held;
3. Establish § 100.704 for Special Local Regulations; Marine Events Within COTP Zone Charleston;
4. Move the remaining list of existing marine events/special local regulations listed in Table to § 100.701(f) under COTP Zone Charleston; Special Local Regulations to proposed new § 100.704, Table to § 100.704;
5. Add new event, “Cooper River Bridge Run” to proposed new Table to § 100.704, Line 1;
6. Add new event, “Myrtle Beach Triathlon” to proposed new Table § 100.704, Line 3;
7. Add new event, “North Charleston Fireworks” to proposed new Table § 100.704, Line 5;
8. Add new event, “Patriots Point Fireworks” to proposed new Table § 100.704, Line 6;
9. Add new event, “Beaufort Water Festival Air Show” to proposed new Table § 100.704, Line 8;
10. Revise the dates for the existing event, “Charleston Race Week” listed in proposed new § 100.704, Line 2 to one week (Monday through Sunday) in April;
11. Revise the dates for the existing event, “Low Country Splash” listed in proposed new § 100.704, Line 4 to one Saturday or Sunday during the last two weeks of May or the first two weeks of June § 100.704;

12. Revise the dates for the existing event, “Beaufort Water Festival” listed in proposed new § 100.704, Line 7 to ten consecutive days (Friday through Sunday) in July;
13. Revise the dates for the existing event, “Swim Around Charleston” listed in proposed new § 100.704, Line 9 to one weekend day (Saturday or Sunday) during the last two weeks of September through the first two weeks of October;
14. Revise the dates for the existing event, “Charleston Parade of Boats” to one weekend day (Friday, Saturday, or Sunday) in December; and
15. Delete existing § 100.713, which contains a special local regulation for the Annual Harborwalk Boat Race; Sampit River, Georgetown, SC because it is no longer held.

The marine events listed in proposed new Table to § 100.704 are scheduled to occur over a particular weekend and month each year. Exact dates are intentionally omitted since calendar dates for a specific weekend change from year to year. Once dates for a marine event are known, the Coast Guard will notify the public of its intent to enforce the special local regulation through various means including a Notice of Enforcement published in the Federal Register, Local Notice to Mariners, and Broadcast Notice to Mariners.

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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and duration of the special local regulations. These areas are limited in size and duration, and usually do not affect high vessel traffic areas. Moreover, the Coast Guard would provide advance notice of the regulated areas to the local maritime community Local Notice to Mariners, Broadcast to Mariners via VHF-FM marine channel 16, and the rule would allow vessels to seek permission to enter 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 safety zone 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 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 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. 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 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 contact 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 effects of this 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 the establishment of special local regulations for recurring marine events within the COTP Charleston Zone. Normally such actions are categorically excluded from further review under paragraphs L61 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in

the docket where indicated in ADDRESSES. 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 contact 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.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, see DHS's Correspondence System of Records notice (84 FR 48645, September 26, 2018).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by

following that website’s instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 100

Harbors, Marine Safety, Navigation (water), Reporting and Record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Parts 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 § 100.701, Table to § 100.701 remove the following text:

“(f) COTP Zone Charleston; Special Local Regulations			
1. 2nd and 3rd weekend of April	Charleston Race Week	Sperry Top-Sider	Charleston Harbor and Atlantic Ocean, South Carolina, All waters encompassed within an 800 yard radius of position 32°46’39” N., 79°55’10” W., All waters encompassed within a 900 yard radius of position 32°45’48” N., 79°54’46” W., All waters encompassed within a 900 yard radius of position 32°45’44” N., 79°53’32” W.
2. 1st week of May	Low Country Splash	Logan Rutledge	Wando River, Cooper River, Charleston Harbor, South Carolina, including the waters of the Wando River, Cooper River, and Charleston Harbor from Daniel Island Pier, in approximate position 32°51’20” N., 079°54’06” W., south along the coast of Daniel Island, across the Wando River to Hobcaw Yacht Club, in approximate position 32°49’20” N., 079°53’49” W., south along the coast of Mt. Pleasant, South Carolina, to Charleston Harbor Resort Marina, in approximate

			position 32°47'20" N., 079°54'39" W., and extending out 150 yards from shore.
3. 2nd week of June	Beaufort Water Festival	City of Beaufort	Atlantic Intracoastal Waterway, Bucksport, South Carolina; All waters of the Atlantic Intracoastal Waterway encompassed within the following points; starting at point 1 in position 33°39'11.5" N., 079°05'36.8" W.; thence west to point 2 in position 33°39'12.2" N., 079°05'47.8" W.; thence south to point 3 in position 33°38'39.5" N., 079°05'37.4" W.; thence east to point 4 in position 33°38'42.3" N., 79°05'30.6" W.; thence north back to origin.
4. 3rd week of September	Swim Around Charleston	Kathleen Wilson	Wando River, main shipping channel of Charleston Harbor, Ashley River, Charleston, South Carolina; A moving zone around all waters within a 75-yard radius around Swim Around Charleston participant vessels that are officially associated with the swim. The Swim Around Charleston swimming race consists of a 10-mile course that starts at Remley's Point on the Wando River in approximate position 32°48'49" N., 79°54'27" W., crosses the main shipping channel of Charleston Harbor, and finishes at the General William B. Westmoreland Bridge on the Ashley River in approximate position 32°50'14" N., 80°01'23" W.
5. 2nd week of November	Head of the South	Augusta Rowing Club	Upper Savannah River mile marker 199 to mile marker 196, Georgia.
6. 2nd week December	Charleston Harbor Christmas Parade of Boats	City of Charleston	Charleston harbor, South Carolina, from Anchorage A through Bennis Reach, Horse Reach, Hog Island Reach, Town Creek Lower Reach, Ashley River, and finishing at City Marina.”

3. Add § 100.704 to read as follows:

§ 100.704 Special Local Regulations; Marine Events Within the Captain of the Port Charleston.

The following regulations apply to the marine events listed in Table 1 of this section.

These regulations will be effective annually for the duration listed in Table 1. The Coast Guard will notify the maritime community of exact dates and times each regulation will be in effect and

the nature of each event (e.g. location, number of participants, type of vessels involved, etc.) through a Notice of Enforcement published in the **Federal Register**, Local Notice to Mariners, and Broadcast Notice to Mariners.

(a) Definitions. The following definitions apply to this section:

(1) *Designated Representative*. The term “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, others operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port (COTP) Charleston in the enforcement of the regulated areas.

(2) *Spectators*. All persons and vessels not registered with the event sponsor as participants.

(b) Event Patrol. The Coast Guard may assign an event patrol, as described in § 100.40 of this part, to each regulated event listed in the table. Additionally, a Patrol Commander may be assigned to oversee the patrol. The event patrol and Patrol Commander may be contacted on VHF Channel 16.

(c) Special Local Regulations.

(1) The COTP Charleston or designated representative may control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel in these areas shall immediately comply with the directions given. Failure to do so may result in removal from the area, citation for failure to comply, or both.

(2) The COTP Charleston or designated representative may terminate the event, or the operation of any vessel participating in the event, at any time it is deemed necessary for the protection of life or property.

(3) Only event sponsor designated participants and official patrol vessels are allowed to enter the regulated area, unless otherwise authorized by the COTP Charleston or designated representative.

(4) Spectators may request permission from the COTP Charleston or designated representative to enter, transit, remain within, or anchor in the regulated area. If permission is granted, spectators must abide by the directions of the COTP Charleston or a designated representative.

(d) Delays or termination. The COTP Charleston or designated representative may delay or terminate any event in this subpart at any time to ensure safety of life or property. Such action may be justified as a result of weather, traffic density, spectator operation, or participant behavior.

Table to § 100.704 – Special Local Regulations; Marine Events Within the Captain of the Port Charleston [Datum NAD 1983]

Date / Time	Event / Sponsor	Location	Regulated Area
1. The First Saturday in April Time (Approximate): 7 a.m. to 10 a.m.	Cooper River Bridge Run Sponsor: The Cooper River Bridge Run Executive Committee	Charleston, SC and Mt. Pleasant, SC	Location: The following is a safety or security zone. All waters of the Cooper River, and Town Creek Reaches encompassed within the following points: beginning at 32° 48' 32" N, 079° 56' 08" W, thence east to 32° 48' 20" N, 079° 54' 20" W, thence south to 32° 47' 20" N, 079° 54' 29" W, thence west to 32° 47' 20" N, 079° 55' 28" W, thence north to

			origin..
<p>2. One week (Monday through Sunday) in April</p> <p>Time (Approximate): 8 a.m. to 5 p.m. each day</p>	<p>Charleston Race Week</p> <p>Sponsor: Charleston Race Week LLC</p>	Charleston, SC	<p>Location: There are five race areas:</p> <p>(1) Race Area #1. All waters of the Charleston Harbor encompassed within a 700 yard radius of position 32°46'10"N, 079°55'15"W.</p> <p>(2) Race Area #2. All waters of the Charleston Harbor encompassed within a 700 yard radius of position 32°46'02"N, 079°54'15"W.</p> <p>(3) Race Area #3. All waters of the Charleston Harbor encompassed within a 700 yard radius of position 32°45'55"N, 079°53'39"W.</p> <p>(4) Race Area #4. All waters of the Charleston Harbor encompassed within a 600 yard radius of position 32°47'40"N, 079°55'10"W.</p> <p>(5) Race Area #5. All waters of the Charleston Harbor and Entrance Channel encompassed within a 500 yard radius of position 32°45'34"N, 79°52'09"W continuing to Charleston Entrance Channel Buoys Green 11 (LLN 2395.5) and Red 12 (LLN 2400).</p>

<p>3. One Saturday or Sunday in April</p> <p>Time (Approximate): 7:30 a.m. to 9:30 a.m.</p>	<p>Myrtle Beach Triathlon</p> <p>Sponsor: GO Race Productions</p>	<p>Myrtle Beach, SC</p>	<p>Location: The following is a safety zone: Certain waters of the Atlantic Intracoastal Waterway within the following two points of position and the North shore: 33°45'03"N, 78°50'47"W to 33°45'18"N, 78°50'14"W, located in Myrtle Beach, South Carolina.</p>
<p>4. One Saturday or Sunday during the last two weeks of May or the first two weeks of June</p> <p>Time (Approximate): 6 a.m. to 11 a.m.</p>	<p>Low Country Splash</p> <p>Sponsor: Logan Rutledge Children's Foundation</p>	<p>Charleston, SC and Mt. Pleasant, SC</p>	<p>Location: All waters within a moving safety zone, beginning at Daniel Island Pier in approximate position 32°51'20" N, 079°54'06"W, south along the coast of Daniel Island, across the Wando River to Hobcaw Yacht Club, in approximate position 32°49'20" N, 079°53'49" W, south along the coast of Mt. Pleasant, S.C., to Charleston Harbor Resort Marina, in approximate position 32°47'20" N, 079°54'39" W.</p>
<p>5. One night during the first week of July</p> <p>Time (Approximate): 8 p.m. to 10 p.m.</p>	<p>North Charleston Fireworks</p> <p>Sponsor: City of North Charleston</p>	<p>North Charleston, SC</p>	<p>Location: The following is a safety zone. All waters within a 500-yard radius of the barge, from which fireworks will be launched on the bank of the Cooper River at River Front Park in North Charleston, South Carolina.</p>
<p>6. One night during the first week of July</p> <p>Time (Approximate): 8 p.m. to 10 p.m.</p>	<p>Patriots Point Fireworks</p> <p>Sponsor: USS Yorktown Foundation Patriot's Naval Museum</p>	<p>Mt. Pleasant, SC</p>	<p>Location: The following is a safety zone: All waters within a 500-yard radius of the barge, from which fireworks will be launched on the bank of the Cooper River at Patriots Point in Charleston, SC.</p>

<p>7. Ten consecutive days (Friday through the next Sunday) in July</p> <p>Time (Approximate): 8 a.m. to 5 p.m. each day</p>	<p>Beaufort Water Festival</p> <p>Sponsor: Beaufort Water Festival</p>	Beaufort, SC	<p>Location: All waters 200 yards from seawall at Waterfront Park extending from Lady's Island Bridge to Spanish Point in Beaufort, SC.</p>
<p>8. One Saturday or Sunday in July</p> <p>Time (Approximate): 12 p.m. to 5 p.m.</p>	<p>Beaufort Water Festival Air Show</p> <p>Sponsor: Beaufort Water Festival</p>	Beaufort, SC	<p>Location: The following is a safety zone: A portion Beaufort River near Riverfront Park in Beaufort, SC. The zone is 700 feet wide by 2600 feet in length on waters of the Beaufort River encompassed within the following points: (1) 32° 25' 47" N / 080° 40' 44" W, (2) 32° 25' 41" N / 080° 40' 14" W, (3) 32° 25' 35" N / 080° 40' 16" W, (4) 32° 25' 40" N / 080° 40' 46" W,</p>
<p>9. One Saturday or Sunday during the last two weeks of September or the first two weeks of October</p> <p>Time (Approximate): 7:30 a.m. to 2 p.m.</p>	<p>Swim Around Charleston</p> <p>Sponsor: Kathleen Wilson.</p>	Charleston, SC	<p>Location: The following is a moving safety zone. All waters 50 yards in front of the lead safety vessel preceding the first race participants, 50 yards behind the safety vessel trailing the last race participants, and at all times extends 100 yards on either side of safety vessels. The Swim Around Charleston swimming race consists of a 12 mile course that starts at Remley's Point on the Wando River in</p>

			approximate position 32°48'49"N, 79°54'27"W, crosses the main shipping channel under the main span of the Ravenel Bridge, and finishes at the I-526 bridge and boat landing on the Ashley River in approximate position 32°50'14"N, 80°01'23"W.
10. One Friday, Saturday or Sunday in December. Time (Approximate): 4 p.m. to 9 p.m.	Charleston Parade of Boats Sponsor: City of Charleston, SC Office of Cultural Affairs	Charleston, SC	Location: Charleston harbor, South Carolina, from Anchorage A through Shutes Folly, Horse Reach, Hog Island Reach, Town Creek Lower Reach, Ashley River, and finishing at City Marina

§ 100.713 [Removed]

4. Remove § 100.713.

Dated: January 17, 2020

J. W. Reed
 Captain, U.S. Coast Guard
 Captain of the Port, Charleston

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