



**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:** Final rule.

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**SUMMARY:** The Coast Guard is revising existing regulations and consolidating into one table the 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.

**DATES:** This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2019-0691 in the “SEARCH” box and click “SEARCH”. Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, 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](mailto: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	<b>Federal Register</b>
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 1 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 rulemaking process for new marine events/special local regulations, COTP's resorted to creating individual rules rather than amending the Table 1 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 1 to § 100.701. The new table facilitates management of and public access to information about marine events within the COTP Charleston Zone.

The Coast Guard published a notice of proposed rulemaking (NPRM) titled "Special Local Regulations; Recurring Marine Events, Sector Charleston" (85 FR 5177). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action. During the comment period that ended February 28, 2020, we received no comments.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). This rule makes 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 existing Table 1 to § 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 1 to § 100.701(f) under COTP Zone Charleston; Special Local Regulations to new § 100.704, Table 1 to § 100.704;
5. Add new event, “Cooper River Bridge Run” to new Table 1 to § 100.704, Line 1;
6. Add new event, “Myrtle Beach Triathlon” to new Table 1 § 100.704, Line 3;
7. Add new event, “North Charleston Fireworks” to new Table 1 § 100.704, Line 5;
8. Add new event, “Patriots Point Fireworks” to new Table 1 § 100.704, Line 6;
9. Add new event, “Beaufort Water Festival Air Show” to new Table 1 § 100.704, Line 8;
10. Revise the dates for the existing event, “Charleston Race Week” listed in 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 new Table 1 to § 100.704, Line 4 to one Saturday or Sunday during the last two weeks of May or the first two weeks of June;
12. Revise the dates for the existing event, “Beaufort Water Festival” listed in new Table 1 to § 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 new Table 1 to § 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” in new Table 1 to § 100.704, Line 10 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 the new Table 1 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. Discussion of Comments, Changes, and the Rule**

As noted above, we received no comments on our NPRM published January 29, 2020. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule revises existing regulations and consolidates the special local regulations into one table for recurring marine events at various locations within the geographic boundaries of the Seventh Coast Guard District Captain of the Port (COTP) Charleston Zone.

#### **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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the rule 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 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.

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 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.

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 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.

*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 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 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 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. For instructions on locating the docket, see the ADRESSES section of this preamble.

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.

**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 amends 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:** 46 U.S.C. 70041; 33 CFR 1.05-1.

2. In § 100.701:

- a. Revise paragraph (d)(1); and
- b. Remove section (e) from table 1 to the section.

The revision reads as follows:

**§100.701 Special Local Regulations; Marine Events in the Seventh Coast Guard District.**

\* \* \* \* \*

(d) \* \* \*

(1) Captain of the Port Charleston, South Carolina: (843) 740-7050.

\* \* \* \* \*

3. Add § 100.704 to read as follows:

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

The regulations in this section apply to the marine events listed in Table 1 of this section. The regulations in this section will be effective annually for the duration listed in Table 1 of this section. 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, to each

regulated event listed in Table 1 of this section. 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) Event delays or termination. The COTP Charleston or designated representative may delay or terminate any event in this section 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 1 to § 100.704 – Special Local Regulations; Marine Events Within the Captain of the Port Charleston [Datum NAD 1983]

<b>Date / Time</b>	<b>Event / Sponsor</b>	<b>Location</b>	<b>Regulated Area</b>
<p>1. The First Saturday in April</p> <p>Time (Approximate): 7 a.m. to 10 a.m.</p>	<p>Cooper River Bridge Run</p> <p>Sponsor: The Cooper River Bridge Run Executive Committee</p>	<p>Charleston, SC and Mt. Pleasant, SC</p>	<p>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>
<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>	<p>Charleston, SC</p>	<p>Location: There are five race areas:</p> <p>(i) 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>(ii) 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>(iii) 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>(iv) 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>(v) Race Area #5. All waters</p>

			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).
3. One Saturday or Sunday in April  Time (Approximate): 7:30 a.m. to 9:30 a.m.	Myrtle Beach Triathlon  Sponsor: GO Race Productions	Myrtle Beach, SC	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.
4. One Saturday or Sunday during the last two weeks of May or the first two weeks of June  Time (Approximate): 6 a.m. to 11 a.m.	Low Country Splash  Sponsor: Logan Rutledge Children's Foundation	Charleston, SC and Mt. Pleasant, SC	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>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>	<p>Beaufort, SC</p>	<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>	<p>Beaufort, SC</p>	<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>	<p>Charleston, SC</p>	<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 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.</p>
<p>10. One Friday, Saturday or Sunday in December.</p> <p>Time (Approximate): 4 p.m. to 9 p.m.</p>	<p>Charleston Parade of Boats</p> <p>Sponsor: City of Charleston, SC Office of Cultural Affairs</p>	<p>Charleston, SC</p>	<p>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</p>

§ 100.713 [Removed]

4. Remove § 100.713.

Dated: April 17, 2020.

J. W. Reed,

Captain, U.S. Coast Guard,  
Captain of the Port, Charleston.

[FR Doc. 2020-08709 Filed: 6/1/2020 8:45 am; Publication Date: 6/2/2020]