



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket Number USCG-2024-0139]

RIN 1625-AA87

### Security Zone; Cooper River, Charleston County, SC

**AGENCY:** Coast Guard, Department of Homeland Security (DHS).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish a permanent security zone for certain waters of the Cooper River between Charleston and Mount Pleasant, SC. This action is necessary to provide for the security and protection of life on navigable waters near the Arthur Ravenel Jr. Bridge during the annual Cooper River Bridge Run. This proposed rulemaking would prohibit persons and vessels from entering the security zone unless authorized by the Captain of the Port Charleston or a designated representative.

We invite 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-2024-0139 using the Federal Decision-Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email Marine Science Technician First Class Thomas J. Welker, Waterways Management Division, U.S. Coast Guard; telephone 843-740-3186, email [Thomas.J.Welker@uscg.mil](mailto:Thomas.J.Welker@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
NOE	Notice of Enforcement
§	Section
U.S.C.	United States Code

**II. Background, Purpose, and Legal Basis**

The Cooper River Bridge Run is a long-standing 10-K race held annually with over 40,000 participants crossing the Arthur J. Ravenel Bridge over the Cooper River from Mount Pleasant, SC to Charleston, SC. Restricting access to waters around the Cooper River in the vicinity of the event has historically been addressed by the use of special local regulations or temporary final regulations establishing a security zone. With the exception of 2020, the Cooper River Bridge Run has occurred in the same location since 2006 and is anticipated to continue on an annual basis for the foreseeable future. Issuing individual regulations for this event each year would create unnecessary administrative costs and burdens.

The purpose of this rulemaking is to ensure the safety of persons and vessels before, during, and after the scheduled race. It would also reduce administrative overhead while ensuring accurate, timely, and consistent notification of this recurring security zone. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70051 and 70124.

**III. Discussion of Proposed Rule**

The COTP is proposing to establish a permanent security zone enforced annually for one day in March or April for a period of approximately three hours. The security zone would cover all navigable waters encompassed within the following points beginning at 32° 48' 32" N, 079° 56' 08" W, thence east to 32° 48' 20" N, 079° 54' 18" 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. All coordinates are in accordance with the 1984 World Geodetic System (WGS 84). The duration of the zone is intended to ensure the security and protection of life before, during, and after the scheduled event. No vessel or person would be permitted to enter, transit through, anchor in or remain within the security zone without obtaining permission from the COTP or a designated representative. If authorization to enter, transit through, anchor in, or remain within the security zone is granted by the COTP or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

#### **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. This NPRM has not been designated a "significant regulatory action," under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, the NPRM

has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on: (1) the security zone would only be enforced for a total of approximately 3 hours; (2) although persons and vessels may not enter, transit through, anchor in, or remain within the zone without authorization from the COTP or a designated representative, they would be able to operate in the surrounding areas during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the areas during the enforcement period if authorized by the COTP or a designated representative; and (4) the Coast Guard will provide advance notification of the zone to the local maritime community by Marine Safety Information Bulletin, Broadcast Notice to Mariners, or by on-scene designated representatives.

#### *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 security 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 proposed 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 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email 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 call or email 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 potential effects of this proposed 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 a security zone lasting approximately 3 hours that would prohibit persons and vessels from entering, transiting through, anchoring in, or remaining within a limited area of the Cooper River surrounding the Arthur Ravenel Jr. Bridge over the Cooper River in Charleston County, South Carolina. Normally such actions are categorically excluded from further review under paragraph L60(a) 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 **ADDRESSES** section of this preamble. 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 call or email 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.

*Submitting comments.* We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2024-0139 in the search box and click "Search." Next, look for this document in the **Search Results** column, and click on it. Then click on the **Comment** option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

*Viewing material in docket.* To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select "Supporting & Related Material" in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. Also, if you click on the Dockets tab and then the proposed rule, you should see a "Subscribe" option for email alerts. The option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

*Personal information.* We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

### **List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

### **PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS**

#### **AREAS**

1. The authority citation for part 165 continues to read as follows:

**Authority:** 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

2. Add § 165.139 to read as follows:

#### **§ 165.139 Security Zone; Cooper River, Charleston County, South Carolina.**

(a) *Location.* The following area is a 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' 18" 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. All coordinates are in accordance with the 1984 World Geodetic System (WGS 84).

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other

officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port (COTP) Charleston in the enforcement of the security zone.

(c) *Regulations.* (1) Under the general security zone regulations in subpart D of this part, no person or vessel will be permitted to enter, transit, anchor, or remain within the security zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by telephone at 843-740-7050 or via VHF radio on channel 16. Those in the security zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* (1) This section will be enforced for approximately 3 hours on one day in March or April.

(2) Notifications of enforcement date and times will be announced via one or more of the following methods: Notice of Enforcement published in the **Federal Register**, local notice to mariners, marine safety information bulletin, broadcast notice to mariners, or by on-scene designated representatives.

Dated: February 28, 2024.

F. J. DelRosso,  
Captain, U.S. Coast Guard,  
Captain of the Port Sector Charleston.

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