

contains anthocyanins as the principal coloring component.

(2) Color additive mixtures for food use made with butterfly pea flower extract may contain only those diluents that are suitable and are listed in this subpart as safe for use in color additive mixtures for coloring foods.

(b) *Specifications.* Butterfly pea flower extract must conform to the following specifications and must be free from impurities, other than those named, to the extent that such other impurities may be avoided by good manufacturing practice:

(1) pH, not less than 3.0 and not more than 4.5 at 25 °C.

(2) Lead, not more than 1 milligram per kilogram (mg/kg) (1 part per million (ppm)).

(3) Arsenic, not more than 1 mg/kg (1 ppm).

(4) Mercury, not more than 1 mg/kg (1 ppm).

(5) Cadmium, not more than 1 mg/kg (1 ppm).

(c) *Uses and restrictions.* Butterfly pea flower extract may be safely used for coloring alcoholic beverages, sport and energy drinks, flavored or carbonated water, fruit drinks (including smoothies and grain drinks), carbonated soft drinks (fruit-flavored or juice, ginger ale, and root beer), fruit and vegetable juice, nutritional beverages, chewing gum, teas, coated nuts, liquid coffee creamers (dairy and non-dairy), ice cream and frozen dairy desserts, hard candy, dairy and non-dairy drinks, fruit preparations in yogurts, and soft candy in amounts consistent with good manufacturing practice, except that it may not be used for coloring foods for which standards of identity have been issued under section 401 of the Federal Food, Drug, and Cosmetic Act, unless the use of added color is authorized by such standards.

(d) *Labeling requirements.* The label of the color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes must conform to the requirements of § 70.25 of this chapter.

(e) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health and therefore batches are exempt from the certification requirements of section 721(c) of the Federal Food, Drug, and Cosmetic Act.

Dated: August 30, 2021.

**Lauren K. Roth,**

*Acting Principal Associate Commissioner for Policy.*

[FR Doc. 2021-18995 Filed 9-1-21; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket Number USCG-2021-0426]

RIN 1625-AA00

#### Special Local Regulation; Swim for Special Operations Forces; San Diego Bay, San Diego, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is amending its special local regulations for recurring marine parades, regattas, and other events in Southern California Annual Marine Events for the San Diego Captain of the Port Zone. This final rule will add one new recurring special local regulation. This action is necessary to provide for the safety of life on the navigable waters during the event. This final rule will restrict vessel traffic in the designated areas during the events unless authorized by the Captain of the Port San Diego or a designated representative.

**DATES:** This rule is effective September 2, 2021.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2021-0426 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant Commander John Santorum, Waterways Management, U.S. Coast Guard; telephone 619-278-7656, email [MarineEventsSD@uscg.mil](mailto:MarineEventsSD@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

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

##### II. Background Information and Regulatory History

On April 8, 2021, The Honor Foundation notified the Coast Guard that it will be hosting the Honor Foundation Swim for Special Operations Forces annually on a Saturday during the month of September. The regulated area would cover all navigable waters of the San Diego Bay, beginning at Glorietta Bay,

continuing to Tidelands Park before proceeding north along the Coronado shoreline, crossing the federal navigable channel at Bayview Park, and finishing at the USS MIDWAY Museum.

In response, on July 2, 2021 the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulations; Swim for Special Operations Forces; San Diego Bay, San Diego, CA (86 FR 35240). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this annual marine event. During the comment period that ended August 2, 2021 we received one comment.

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

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041 (previously 33 U.S.C. 1231). The Captain of the Port San Diego (COTP) has determined that potential hazards associated with the Honor Foundation Swim for Special Operations Forces annually on a Saturday during the month of September will present a safety of life concern on navigable waters. The purpose of this rule is to ensure safety of life on the navigable waters in the safety zone before, during, and after the scheduled event. For the reasons stated above, we are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because enforcement of this safety zone is necessary to protect swimmers and vessels from the dangers associated with the swim race events planned for a Saturday in September 2021.

##### IV. Discussion of Comments, Changes, and the Rule

As noted above, we received one comment on the NPRM published July 2, 2021. The commenter proposed a method for intercepting and impounding vessels entering the safety zone. The Coast Guard was not proposing to specify how on scene representatives must handle situations where vessels enter the safety zone in this rulemaking. The purpose of this rulemaking is to establish the reoccurring annual safety zone and its location. The Coast Guard has existing regulations and policies that cover enforcement and this rulemaking does not intend to deviate from those practices. Accordingly, no changes to the regulatory text were made in response to this comment.

There is one nonsubstantive change in the regulatory text from the proposed rule to remove a typographical error, “SS”, in the event type.

This rule establishes a safety zone annually on a Saturday in September. The safety zone will cover all waters of San Diego Bay, from surface to bottom, beginning at Glorietta Bay, continuing to Tidelands Park, proceeding north along the Coronado shoreline, crossing the federal navigable channel at Bayview Park, and finishing at the USS MIDWAY Museum. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

## 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. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration of the special local regulation. Vessel traffic would be able to safely transit around this special local regulation, which would impact a small-designated area of the San Diego Bay. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the areas, and the rule would allow vessels to seek permission to enter the areas.

### 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 (Pub. L. 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 call or email 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 does 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 will 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 determined 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 a regulated area that would prohibit persons and vessels from transiting the regulated area during the swim event. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A 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.

### G. Protest Activities

The Coast Guard respects the First Amendment rights of protestors. 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.

### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, 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 § 100.1101, amend table 1 to § 100.1101, by adding an entry for “16. Swim for Special Operations Forces;

San Diego Bay, San Diego, CA” to read as follows:  
**§ 100.1101 Southern California Annual Marine Events for the San Diego Captain of the Port Zone.**

TABLE 1 TO § 100.1101

**16. Swim for Special Operations Forces; San Diego Bay, San Diego, CA**

Sponsor .....	The Honor Foundation.
Event Description .....	Swim race.
Date .....	Saturday in September.
Location .....	San Diego Bay, CA.
Regulated Area .....	All waters of San Diego Bay, from surface to bottom, beginning at Glorietta Bay, continuing to Tidelands Park, proceeding north along the Coronado shoreline, crossing the federal navigable channel at Bayview Park, and finishing at the USS MIDWAY Museum.

\* \* \* \* \*

Dated: August 27, 2021.  
**T.J. Barelli,**  
*Captain, U.S. Coast Guard, Captain of the Port San Diego.*  
 [FR Doc. 2021–18955 Filed 9–1–21; 8:45 am]  
**BILLING CODE 9110–04–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

[Docket Number USCG–2021–0653]

RIN 1625–AA08

**Special Local Regulation; Lighthouse Musicfest, Huntington Bay, Long Island, NY**

**AGENCY:** Coast Guard, DHS.  
**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary special local regulation of certain navigable waters of Huntington Bay, Long Island, NY, for the Lighthouse Musicfest marine event. This action is necessary to provide the safety of life on these navigable waters during the event scheduled for Saturday, September 4, 2021. This rule will allow the Coast Guard to prohibit vessel traffic in the vicinity of the event and establishes mooring areas and a speed restriction in the designated zone.  
**DATES:** This rule is effective from 9:30 a.m. through 7:30 p.m. on Saturday, September 4, 2021 with a rain date effective from 9:30 a.m. through 7:30 p.m. on Sunday, September 5, 2021. The rule will only be subject to enforcement from 9:30 a.m. through 7:30 p.m. on September 4, 2021, unless the event is

delayed because of weather conditions in which case it may be subject to enforcement those same hours on September 5, 2021.  
**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2021–0653 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”  
**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email MST1 Chris Gibson, Waterways Management Division, U.S. Coast Guard; telephone 203–468–4565, email [Chris.A.Gibson@uscg.mil](mailto:Chris.A.Gibson@uscg.mil).  
**SUPPLEMENTARY INFORMATION:**  
**I. Table of Abbreviations**  
 CFR Code of Federal Regulations  
 COTP Captain of the Port Long Island Sound  
 DHS Department of Homeland Security  
 FR Federal Register  
 NPRM Notice of proposed rulemaking  
 § Section  
 U.S.C. United States Code

**II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM)

with respect to this rule because it is impracticable and contrary to the public interest. The event sponsor was late in submitting the marine event application. This late submission did not give the Coast Guard enough time to publish an NPRM, take public comments, and issue a final rule before the effective date. It would be impracticable and contrary to the public interest to delay promulgating this rule, as it is necessary to protect the safety of waterway users. Further, the expeditious implementation of this rule is in the public interest because it will help ensure the safety of spectators and those involved in the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because the temporary special local regulation must be established on September 4, 2021 to ensure the safety of spectators and vessels during the event.

**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). The Captain of the Port Long Island Sound (COTP) has determined that extra and unusual hazards exists for persons or vessels operating within the waters of Huntington Bay, Long Island, NY with the Lighthouse Musicfest marine event. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the special local regulated area during the Lighthouse Musicfest marine event.