



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2018-1098]

RIN 100-AA08

Special Local Regulations; Annual Boyne Thunder Poker Run; Charlevoix, MI

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is adding a special local regulation to increase safety in the navigable waters of Round Lake and Pine River Channel, Charlevoix, MI, during the annual Boyne Thunder Poker Run. The regulation will allow the Coast Guard Patrol Commander to control vessel traffic during the event in this small and restricted waterway. The regulation will be enforced during the day of the event. The date and time will be announced via a Notice of Enforcement.

DATES: This regulation is effective July 13, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket go to <http://www.regulations.gov>. Type the docket number (USCG-2018-1098) 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 MST2 Blackledge, Waterways Management, Coast Guard Sector Sault Sainte Marie, U.S. Coast Guard; telephone 906-253-2443, email Onnalee.A.Blackledge@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

The Annual Boyne Thunder Poker Run is a charity marine event occurring in the month of July with a route that runs from Boyne City out to Lake Michigan and back to Boyne City. This event, occurring annually for the past 15 years, includes approximately 100 participants in offshore type power vessels. Round Lake and Pine River Channel are small restricted waterways that normally have a variety of recreational users and a commercial ferry that provides service to Beaver Island. This mix of vessels in close proximity to the event warrants additional safety measures. In response, the Coast Guard published a notice of proposed rulemaking (NPRM) on March 11, 2019 (84 FR 8641). There, we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this Special Local Regulation. During the comment period that ended May 10th 2019, we received no comments.

The regulation will be enforced during the day of the event. The date and time will be announced via a Notice of Enforcement published in the Federal Register.

The legal basis for this final rulemaking is found at 46 U.S.C. 70041; 33 CFR 1.05-1.

III. Discussion of Proposed Rule

We received no comments from the NPRM published March 11, 2019. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM. The Captain of

the Port Sault Sainte Marie (COTP) has determined that adding the Annual Boyne City Poker Run to the list of Special Local Regulations in the navigable waters of Round Lake and Pine River Channel in Charlevoix, MI is the most practical way to ensure the safety of the boating public.

IV. 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, duration, and time-of-day for the Special Local Regulation. Vessel traffic will be able to safely transit through the regulated area, with the permission of the Patrol Commander, which will impact a small designated area within the COTP zone for a short duration of time. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF-FM marine channel 16 about the special local 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 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 regulated area may be small entities, for the reasons stated in section IV.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. If you believe this 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 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 Management Directive 023-01 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 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 prohibits vessels from entering, transiting through, or anchoring within the regulated area without the permission of the Coast Guard Patrol Commander. Normally such actions are categorically excluded from further review under paragraph L61 in Table 3-1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES.

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. Add §100.929 to read as follows:

§100.929 Special Local Regulations; Annual Boyne Thunder Poker Run; Charlevoix, MI.

(a) *Regulated area.* The special local regulations in this section apply to all U.S. navigable waters of Round Lake and Pine River Channel, Charlevoix, MI, within an area bordered by a line at the entrance of the Pine River Channel charted in position 45° 19' 15"N, 085°15'55"W to 45°19'13"N, 085°15'55"W to the southeast end of Round Lake charted in position 45°18'57"N, 085°14'49"W to 45°18'56"N, 085°14'50"W.

(b) *Special local regulation.* The regulations of §100.901 apply. No vessel may enter, transit through, or anchor within the regulated area in this section without the permission of the Coast Guard Patrol Commander.

(c) *Enforcement period.* The Coast Guard will issue a Notice of Enforcement with the exact time and date in July that the regulated area in this section will be enforced.

Dated: May 24, 2019.

P. S. Nelson,
Captain, U.S. Coast Guard,
Captain of the Port Sault Sainte Marie.
[FR Doc. 2019-11527 Filed: 6/3/2019 8:45 am; Publication Date: 6/4/2019]