



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2019-0058]

RIN 1625-AA08

Special Local Regulation; Lake Pontchartrain, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for certain navigable waters of Lake Pontchartrain in New Orleans, LA. This action is necessary to protect persons and vessels from potential hazards created by the Kenner Super Boat Grand Prix Race. Entry of vessels or persons into this zone would be prohibited unless authorized by the Captain of the Port Sector New Orleans or a designated representative.

DATES: This rule is effective from 10 a.m. through 5 p.m. on June 23, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2019-0058 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 about this rulemaking, call or email Lieutenant Commander Benjamin Morgan, Sector New

Orleans, U.S. Coast Guard; telephone 504-365-2281, email

Benjamin.P.Morgan@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port Sector New Orleans
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 January 19, 2019, Super Boat International Productions (SBIP) notified the Coast Guard that it would be conducting the Kenner Super Boat Grand Prix boat race from 10 a.m. to 5 p.m. on June 23, 2019. In response, on March 1, 2019, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Special Local Regulation; Lake Pontchartrain, New Orleans, LA” (89 FR 6989). 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 April 1, 2019, 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. 70041(a). The Captain of the Port New Orleans (COTP) has determined that potential hazards associated with the boat race will be a safety concern for anyone within the established race zone. The race zone would cover all navigable waters within the following coordinates on Lake Pontchartrain in New Orleans, LA: 30° 03.056’ N / 090° 15.489’ W

to 30° 02.500' N / 090° 13.547' W to 30° 02.717' N / 090° 13.460' W to 30° 03.252' N / 090° 15.374' W. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published March 1, 2019. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a temporary special regulation in the specified area from 10 a.m. to 5 p.m. on June 23, 2019. The race zone would cover all navigable waters within the following coordinates on Lake Pontchartrain in New Orleans, LA: 30° 03.056' N / 090° 15.489' W to 30° 02.500' N / 090° 13.547' W to 30° 02.717' N / 090° 13.460' W to 30° 03.252' N / 090° 15.374' W. The duration of the area is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled marine event. Only predesignated vessel(s) or person(s) would be permitted within the safety zone. The sponsor would designate a spectator zone on the north side of the race zone, as defined by the aforementioned coordinates, for vessels. No additional vessel(s) or person(s) would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans. Vessels requiring entry into this regulated area must request permission from the COTP or a designated representative. They may be contacted on VHF-FM Channel 16 or 67 or by telephone at (504) 365-2200. Persons and vessels permitted to enter this regulated area must transit at their slowest safe

speed and comply with all lawful directions issued by the COTP or the designated representative. No spectator vessel would be allowed to anchor, block, loiter, or impede the through transit of participants or a designated patrol vessel in the regulated area during the effective dates and times, unless cleared for entry by the COTP or the designated representative. Any spectator vessel may anchor outside the regulated area. Spectator vessels might be moored to a waterfront facility within the regulated area in such a way that they would not interfere with the progress of the event. Such mooring would have to be complete at least 30 minutes prior to the establishment of the regulated area and remain moored through the duration of the event.

The COTP or a designated representative might forbid and control the movement of all vessels in the regulated area. When hailed or signaled by a designated patrol vessel, a vessel would come to an immediate stop and comply with the directions given. Failure to do so might result in expulsion from the area, citation for failure to comply, or both. The COTP or a designated representative might terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property. The COTP or a designated representative would terminate enforcement of the special local regulations at the conclusion of the event.

The COTP or a designated representative would inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

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, this 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 and duration of the temporary special local regulation. The regulated area would cover a small area of the navigable waters within the following coordinates on Lake Pontchartrain in New Orleans, LA: 30° 03.056’ N / 090° 15.489’ W to 30° 02.500’ N / 090° 13.547’ W to 30° 02.717’ N / 090° 13.460’ W to 30° 03.252’ N / 090° 15.374’ W. The duration of the regulated area would be seven hours on one day and would not be expected to significantly affect the vessel traffic on Lake Pontchartrain. The COTP would allow entry into the area on a case-by-case basis. Moreover, the Coast Guard would issue a Local Notice to Mariners (LNM), Marine Safety Information Bulletins (MSIBs), and/or Broadcast Notice to Mariners (BNM) via VHF-FM marine channel 16 about the zone. This would allow waterway users to plan accordingly for transits during this restriction.

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 00 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 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. 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 Directive 023-01 and Commandant Instruction M16475.1D, 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 temporary specially regulated area lasting seven hours that would prohibit entry into the area within the following coordinates: 30° 03.056' N / 090° 15.489' W to 30° 02.500' N / 090° 13.547' W to 30° 02.717' N / 090° 13.460' W to 30° 03.252' N / 090° 15.374' W. This action is categorically excluded from further review under L61 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A preliminary 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

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. Add § 100.T08-0058 to read as follows:

§ 100.T08-0058 Special Local Regulation; Lake Pontchartrain, New Orleans,

LA.

(a) Location. The following area is a special local regulation: 30° 03.056' N / 090° 15.489' W to 30° 02.500' N / 090° 13.547' W to 30° 02.717' N / 090° 13.460' W to 30° 03.252' N / 090° 15.374' W.

(b) Effective period. This section is effective from 10 a.m. through 5 p.m. on June 23, 2019.

(c) Regulations. (1) In accordance with the general regulations in §100.35, entry into or remaining within this regulated area is prohibited unless authorized by the Captain of the Port Sector New Orleans (COTP) or designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans.

(2) Vessels requiring entry into this regulated area must request permission from the COTP or a designated representative. They may be contacted on VHF-FM Channel 16 or 67 or by telephone at (504) 365-2200.

(3) Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(4) No spectator vessel is allowed to anchor, block, loiter, or impede the through

transit of participants or a designated patrol vessel in the regulated area during the effective dates and times, unless cleared for entry by the COTP or the designated representative.

(5) Any spectator vessel may anchor outside the regulated area. Spectator vessels may be moored to a waterfront facility within the regulated area in such a way that they do not interfere with the progress of the event. Such mooring have to be complete at least 30 minutes prior to the establishment of the regulated area and remain moored through the duration of the event.

(6) The COTP or a designated representative may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by a designated patrol vessel, a vessel shall come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(7) The COTP or a designated representative may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property. The COTP or a designated representative will terminate enforcement of the special local regulations at the conclusion of the event.

(d) Information broadcasts. The COTP or a designated representative will inform the public of the enforcement times and date for this regulated area through Broadcast Notices to Mariners (BNMs), Local Notice to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs), as appropriate.

Dated: April 10, 2019.

K. M. Luttrell,

Captain, U.S. Coast Guard,

Captain of the Port Sector New Orleans.

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