

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

[Docket No. USCG–2012–0039]

RIN 1625–AA08

**Special Local Regulations; Savannah Tall Ships Challenge, Savannah River, Savannah, GA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish special local regulations on the Savannah River in Savannah, Georgia during the Savannah Tall Ships Challenge. The Savannah Tall Ships Challenge will take place from Thursday, May 3, 2012 through Monday, May 7, 2012. Approximately 15 vessels are anticipated to participate in the event. These special local regulations are necessary to provide for the safety of life and property on navigable waters of the United States during the event. The special local regulations would establish the following three areas: (1) Mooring zones; (2) buffer zones; and (3) a staging area. First, mooring zones would be established around vessels participating in the Savannah Tall Ships Challenge while the vessels are moored at their mooring locations along the right and left descending banks of the Savannah River in Savannah, Georgia. Second, buffer zones would be established around vessels participating in the Savannah Tall Ships Challenge as they transit from their mooring locations on the Savannah River to the staging area. Third, a staging area would be established, where vessels participating in the Savannah Tall Ships Challenge will congregate before commencing their voyage to the next port as part of the 2012 Tall Ships Challenge. Persons and vessels that are not participating in the Savannah Tall Ships Challenge would be prohibited from entering, transiting through, anchoring in, or remaining within the mooring zones, buffer zones, or staging area unless authorized by the Captain of the Port Savannah or a designated representative.

**DATES:** Comments and related material must be received by the Coast Guard on or before March 9, 2012. Requests for public meetings must be received by the Coast Guard on or before February 16, 2012.

**ADDRESSES:** You may submit comments identified by docket number USCG–

2012–0039 using any one of the following methods:

(1) *Federal eRulemaking Portal:*

*<http://www.regulations.gov>.*

(2) *Fax:* (202) 493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or email Chief Petty Officer Benjamin Mercado, Marine Safety Unit Savannah Office of Waterways Management, Coast Guard; telephone (912) 652–4353, email *Benjamin.Mercado@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

**Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *<http://www.regulations.gov>* and will include any personal information you have provided.

*Submitting Comments*

If you submit a comment, please include the docket number for this rulemaking (USCG–2012–0039), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *<http://www.regulations.gov>*) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *[www.regulations.gov](http://www.regulations.gov)*, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by

the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *<http://www.regulations.gov>*, click on the “submit a comment” box, which will then become highlighted in blue. In the “Document Type” drop down menu select “Proposed Rule” and insert “USCG–2012–0039” in the “Keyword” box. Click “Search” then click on the balloon shape in the “Actions” column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

*Viewing Comments and Documents*

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *<http://www.regulations.gov>*, click on the “read comments” box, which will then become highlighted in blue. In the “Keyword” box insert “USCG–2012–0039” and click “Search.” Click the “Open Docket Folder” in the “Actions” column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

*Privacy Act*

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

*Public Meeting*

We do not plan to hold a public meeting, but you may submit a request for one on or before February 16, 2012 using one of the four methods specified

under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

### Basis and Purpose

The legal basis for the proposed rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the proposed rule is to insure safety of life and property on navigable waters of the United States during the Savannah Tall Ships Challenge.

### Discussion of Proposed Rule

From Thursday, May 3, 2012 through Monday, May 7, 2012, the Savannah Tall Ships Challenge is scheduled to take place on the Savannah River in Savannah, Georgia. Beginning on May 3, 2012, participating vessels will moor at the downtown Savannah River waterfront, along the right and left descending banks of the Savannah River. The vessels will remain moored at these locations until May 7, 2012. On May 7, 2012 between 11:40 a.m. and 3 p.m., vessels participating in the Savannah Tall Ships Challenge will transit the Savannah River from their mooring locations to a staging area, where they will congregate before heading to the next port in the 2012 Tall Ships Challenge. The vessels are scheduled to depart the staging area on May 7, 2012 between 3 p.m. and 4:30 p.m.

The proposed rule would establish special local regulations on the Savannah River in Savannah, Georgia during the Savannah Tall Ships Challenge. The special local regulations would establish the following three regulated areas.

(1) *Mooring Zones*. All waters of the Savannah River within 25 yards of vessels participating in the Savannah Tall Ships Challenge while such vessels are moored. The mooring zones would be enforced from 10:30 a.m. on May 3, 2012 until 3 p.m. on May 7, 2012.

(2) *Buffer Zones*. All waters of the Savannah River within 200 yards of vessels participating in the Savannah Tall Ships Challenge as they transit from their mooring locations to the staging area. The buffer zones would be enforced from 11:30 a.m. until 3 p.m. on May 7, 2012.

(3) *Staging Area*. All waters within a one nautical mile radius of position 31°57'47" N, 80°40'24" W. The staging area would be enforced from 11:30 a.m. until 4:30 p.m. on May 7, 2012.

Notice of the special local regulations, including the names and mooring

locations of the vessels participating in the Savannah Tall Ships Challenge and the identities of the lead safety vessel and the last safety vessel as the vessels transit to the staging area, would be provided prior to the event by Local Notice to Mariners and Broadcast Notice to Mariners.

Persons and vessels would be prohibited from entering, transiting through, anchoring in, or remaining within any of the regulated areas unless authorized by the Captain of the Port Savannah or a designated representative. Persons and vessels would be able to request authorization to enter, transit through, anchor in, or remain within the regulated areas by contacting the Captain of the Port Savannah by telephone at (912) 652-4353, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within any of the regulated areas is granted by the Captain of the Port Savannah or a designated representative, all persons and vessels receiving such authorization would be required to comply with the instructions of the Captain of the Port Savannah or a designated representative.

### Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

#### *Regulatory Planning and Review*

Executive Orders 13563, Improving Regulation and Regulatory Review, and 12866, Regulatory Planning and Review, 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule has not been designated a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has not reviewed this proposed rule under Executive Order 12866.

The economic impact of this proposed rule is not significant for the following reasons: (1) The special local regulations would be enforced for a total of 102 hours; (2) although persons and vessels

would not be able to enter, transit through, anchor in, or remain within the regulated areas without authorization from the Captain of the Port Savannah or a designated representative, they would be able to operate in the surrounding area during the enforcement periods; (3) persons and vessels would still be able to enter, transit through, anchor in, or remain within the regulated areas if authorized by the Captain of the Port Savannah or a designated representative; and (4) the Coast Guard would provide advance notification of the safety zones to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

#### *Small Entities*

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. 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. This proposed rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of the Savannah River encompassed within the special local regulations from 10:30 a.m. on May 3, 2012 through 4:30 p.m. on May 7, 2012. For the reasons discussed in the Regulatory Planning and Review section above, this proposed rule would not have a significant economic impact on a substantial number of small entities.

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 proposed rule would economically affect it.

#### *Assistance for Small Entities*

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 so that they can better evaluate its effects on them and participate in the rulemaking.

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 contact Chief Petty Officer Benjamin Mercado, Marine Safety Unit Savannah Office of Waterways Management, Coast Guard; telephone (912) 652-4353, email [Benjamin.Mercado@uscg.mil](mailto:Benjamin.Mercado@uscg.mil). 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.

#### *Collection of Information*

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### *Federalism*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

#### *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 or more in any one year. Though this proposed rule would not result in such expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

#### *Taking of Private Property*

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### *Civil Justice Reform*

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### *Protection of Children*

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from

Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### *Indian Tribal Governments*

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.

#### *Energy Effects*

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### *Technical Standards*

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### *Environment*

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast

Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (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 establishing special local regulations issued in conjunction with a marine parade, as described in figure 2-1, paragraph (34)(h), of the Instruction. Under figure 2-1, paragraph (34)(h), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this proposed rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### **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 proposes to amend 33 CFR part 100 as follows:

#### **PART 165—SAFETY OF LIFE ON NAVIGABLE WATERS**

1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233.

2. Add temporary § 100.35T07-0039 to read as follows:

#### **§ 100.35T07-0039 Special Local Regulations; Savannah Tall Ships Challenge, Savannah River, Savannah, GA.**

(a) *Regulated Areas.* The following regulated areas are established as special local regulations during the Savannah Tall Ships Challenge, with the specific enforcement period for each of the regulated areas. All coordinates are North American Datum 1983.

(1) *Mooring Zones.* All waters of the Savannah River within 25 yards of vessels participating in the Savannah Tall Ships Challenge while such vessels are moored. These regulated areas will be enforced from 10:30 a.m. on May 3, 2012 until 3 p.m. on May 7, 2012.

(2) *Buffer Zones.* All waters of the Savannah River within 200 yards of vessels participating in the Savannah Tall Ships Challenge as they transit from their mooring locations to the staging area. These regulated areas will be enforced from 11:30 a.m. until 3 p.m. on May 7, 2012.

(3) *Staging Area.* All waters within a one nautical mile radius of position 31°57'47" N 80°40'24" W. This regulated area will be enforced from 11:30 a.m. until 4:30 p.m. on May 7, 2012.

(b) *Definition.* The term “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Savannah in the enforcement of the regulated areas.

(c) *Regulations.*

(1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated areas unless authorized by the Captain of the Port Savannah or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated areas may contact the Captain of the Port Savannah by telephone at (912) 652-4353, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated areas is granted by the Captain of the Port Savannah or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Savannah or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas, including the names and mooring locations of the vessels participating in the Savannah Tall Ships Challenge and the identities of the lead safety vessel and the last safety vessel as the vessels transit to the staging area, prior to the event by Local Notice to Mariners and Broadcast Notice to Mariners. Notice will also be provided by on-scene designated representatives.

(d) *Enforcement Date.* This rule will be enforced from 10:30 a.m. on May 3, 2012 through 4:30 p.m. on May 7, 2012.

Dated: January 25, 2012.

**J.B. Loring,**

*Commander, U.S. Coast Guard, Captain of the Port Savannah.*

[FR Doc. 2012-2739 Filed 2-6-12; 8:45 am]

**BILLING CODE 9110-04-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[Docket No. USCG-2011-1136]

RIN 1625-AA09

**Drawbridge Operation Regulation; Christina River, Wilmington, DE**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change the regulations that govern the operation of the Norfolk Southern Railroad Bridges over the Christina River at miles 4.1 and 4.2, both in Wilmington, DE. Since there have been no recorded requests for vessel openings in more than 20 years for either bridge, this proposal would change the current regulations by allowing the drawbridge, at mile 4.1, to be maintained in the closed position to navigation and the drawbridge, at mile 4.2, to be left in the open-to-navigation position.

**DATES:** Comments and related material must reach the Coast Guard on or before March 23, 2012.

**ADDRESSES:** You may submit comments identified by docket number USCG-2011-1136 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* (202) 493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC, 20590-0001.

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**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or email Terrance Knowles, Coast Guard; telephone (757) 398-6587, email [Terrance.A.Knowles@uscg.mil](mailto:Terrance.A.Knowles@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

**SUPPLEMENTARY INFORMATION:**

**Public Participation and Request for Comments**

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**Submitting Comments**

If you submit a comment, please include the docket number for this rulemaking (USCG-2011-1136), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (<http://www.regulations.gov>), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the “submit a comment” box, which will then become highlighted in blue. In the “Document Type” drop down menu select “Proposed Rules” and insert “USCG-2011-1136” in the “Keyword” box. Click “Search” then click on the balloon shape in the “Actions” column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½; by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

**Viewing Comments and Documents**

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