

Coast Guard Captain of the Port, Savannah, Georgia or that officer's designated representatives. Vessels docked, moored, or anchored in one of the security zones when they become effective must remain in place unless ordered by or given permission from the COTP to do otherwise. Persons desiring to enter or transit the areas encompassed by the security zones may contact the Coast Guard on VHF Channel Marine 16 or at (912) 652-4353 to seek permission to enter or transit the zones. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or that officer's designated representatives.

Dated: March 30, 2004.

Harvey E. Johnson, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Savannah-04-040]

RIN 1625-AA00

Security Zones and Regulated Navigation Areas; Savannah River, GA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish temporary security zones and a temporary regulated navigation area, from June 5, 2004, through June 11, 2004, for the G-8 Summit to be held in Sea Island, Georgia. These proposed rules are required to provide for the security of the public, the G-8 Summit and its participants, and the safety of the waterways due to the potential for hostile and violent acts from demonstrators protesting the G-8. The proposed temporary security zones would prohibit the entry of all vessels into all waters of the Savannah River from Port Wentworth south to the boundary of the proposed temporary regulated navigation area that is located in the vicinity of the south east tip of Elba Island at the western portion of the Lower Flats Range. The proposed temporary regulated navigation area would control the movement of all vessels operating on the Intracoastal Waterway in the vicinity of Fields Cut and south through Elba Island Cut to St. Augustine Creek.

DATES: Comments and related material must reach the Coast Guard on or before May 10, 2004.

ADDRESSES: You may mail comments and the related material to Marine Safety Office Savannah, 100 W. Oglethorpe Ave., Suite 1017, Savannah, Georgia 31401. Marine Safety Office Savannah maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Savannah between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

LTJG Anthony Quirino, Coast Guard Marine Safety Office Savannah, (912) 652-4353, ext 235.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [COTP Savannah 04-040], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8 1/2 by 11 inches, suitable for copying. If you would like to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. Persons may submit a request for a public meeting by submitting a written request to Marine Safety Office Savannah at the address listed in the **ADDRESSES** section of this notice of proposed rulemaking. This request should describe the benefits of a public meeting. If we determine that a public meeting would aid this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

Background and Purpose

The G8 (Group of 8) is an informal group of eight countries—Canada, France, Germany, Italy, Japan, Russia, the United Kingdom and the United States—whose leaders meet to discuss

broad economic and foreign policies. The 30th G-8 summit will be held in Sea Island, Georgia, from June 8 through June 10, 2004.

Cities that have recently hosted conferences or summits similar to the G-8 Summit have experienced significant challenges to public safety, property damage, and their law enforcement officers and public citizens have sustained personal injuries from a small, but determined segment of protestors engaged in violent demonstration against those summits and their agendas. Examples include the September 2003 World Trade Organization (WTO) Ministerial in Cancun, Mexico; the 2003 G-8 Summit in Calgary, Canada, the 2001 G-8 Summit in Genoa, Italy; and the 1999 World Trade Organization in Seattle, Washington. These conferences and summits experienced an influx of protestors, and in particular protest groups opposing international trade who have a propensity for violence and a desire to engage in hostile acts against, among others, summit attendees, conference venues, the general public, business and municipal buildings, and law enforcement officials. Information and intelligence indicates that there is a high potential for similar acts to be attempted during the upcoming June G-8 Summit in Savannah, Georgia.

This history has heightened the need for the development and implementation of various security measures in the vicinity of the Savannah River, particularly around venue areas established for the dignitaries and official parties attending the G-8 Summit, critical port facilities and infrastructure, bridges, and the navigable waterways. The Coast Guard has determined from information provided by local, state, and federal law enforcement officials that vessels or persons in close proximity to the G-8 Summit may launch hostile or violent acts from the waterways adjacent to the Summit and from the waterways adjacent to where Summit attendees are staying. The potential for these acts poses a threat to public safety and security, the G-8 Summit and its participants, and the flow of commerce on the navigable waterways.

The proposed temporary security zones and proposed temporary regulated navigation area are being established to mitigate these threats and are necessary to protect public safety, the G-8 conference and attendees, law enforcement officers, the Port of Savannah and commerce within the port from persons attempting hostile and violent acts.

Please note that elsewhere in today's **Federal Register**, we have published another proposed rule also intended to provide security of the public, the G-8 Summit and its participants, and the safety of the waterways during the same time as this proposed rule. That other proposed rule is COTP Savannah-04-041, entitled "Security Zone, St. Simons Sound and the Atlantic Ocean, GA."

Discussion of Rule

The proposed temporary security zones would prohibit all vessels and persons from entering the waters encompassed by the following areas unless they first obtain permission from the Captain of the Port of Savannah or his designated representatives by calling on VHF Channel Marine 16 or at (912) 652-4353:

(1) *Savannah River*. An imaginary line starting at Channel Light 22, (Light List Volume III, Number 5090), at the intersection of the Middle River and the Savannah River and crossing due West over the Savannah River to Port Wentworth at approximate point 32°08'47" N, 081°06'36" W; then all waters of the Savannah River from shore to shore and surface to bottom south and east of this imaginary line downriver to an imaginary line starting at the south east tip of Elba Island at approximate point 32°04'19" N, 080°58'27" W and extending due north across the Savannah River and through Red Buoy #36 to approximate point 32°04'40" N, 080°58'19" W.

(2) *Back River*. The proposed security zone also includes all waters of the Back River south and east of the Highway 17 bridge from shore to shore and surface to bottom easterly to where the Back River meets the Savannah River.

(3) *South Channel Elba Island*. The proposed security zone also includes all waters of the South Channel south of Elba Island, from shore to shore and surface to bottom, from the intersection of the Savannah River and the South Channel and continuing south easterly to an imaginary line starting at the south east tip of Elba Island at approximate point 32°04'19" N, 080°58'27" W and extending south westerly following the northern edge of Elba Island Cut channel to the north east tip of McQueen Island at approximate position 32°04'08" N, 080°58'55" W.

(4) *Intracoastal Waterway Alternate Route*. The proposed security zone also includes all waters of the Intracoastal Waterway Alternate Route from shore to shore and surface to bottom from St. Augustine Creek Day Beacon A18 (Light List, Vol. III, no. 35960) to Day Beacon A12 (Light List, Vol. III, no. 35945).

The proposed temporary RNA would require all vessels to obtain permission from the Captain of the Port of Savannah or his designated representatives via VHF Channel Marine 16, before entering or transiting the RNA and would require all vessels to proceed continuously and at a slow speed while transiting within the RNA. Specific security concerns may cause the Captain of the Port to delay the grant of permission to enter or transit the RNA. All vessels within the proposed temporary RNA are subject to control by the Captain of the Port of Savannah and his designated representatives—normally Coast Guard and law enforcement patrol craft in the area. The proposed temporary RNA includes all waters encompassed by the following areas:

(1) *Savannah River, Lower Flats Range*. An imaginary line starting at the south east tip of Elba Island at approximate point 32°04'19" N, 080°58'27" W and extending due north across the Savannah River and through Red Buoy #36 to approximate point 32°04'40" N, 080°58'19" W and all waters of the Savannah River southeast of that line, from shore to shore and surface to bottom in the vicinity of Lower Flats Range, to an imaginary line starting at the western tip of Jones Island at the intersection of the Intracoastal Waterway and extending southwesterly across the Savannah River intersecting through Green buoy "35" to Bird Island at approximate point 32°04'15" N, 080°58'00" W.

(2) *Intracoastal Waterway*. All waters of the Intracoastal Waterway from shore to shore and surface to bottom from Fields Cut Buoy 48 (Light List, Vol. III, no. 35865) at Wright River to Elba Island Cut Light 10 (Light List, Vol. III no. 35900) at St. Augustine Creek.

The proposed temporary RNA is necessary to ensure the safety of the public, critical port facilities and infrastructure, the G-8 Summit and the navigable waters of the United States.

Information and past experience indicate the G-8 demonstrators may attempt to interfere with commercial shipping, both underway and while moored. Attempts may include unauthorized boardings of vessels while underway or moored in an effort to interrupt commerce and port operations. Additionally, demonstrators may attempt unauthorized entry into or upon commercial and government facilities located along the Savannah River for these same reasons. The proposed temporary RNA, by regulating the movement of vessels by requiring vessels to obtain permission prior to entering or transiting the zone and

imposing a slow speed zone will assist law enforcement officers in ensuring the safety and security of the Port of Savannah, critical port facilities and infrastructure, the G-8 Summit and the navigable waters of the United States.

The temporary RNA requires all vessels within the regulated navigation area to proceed continuously and at a slow speed. Slow speed is defined as the speed at which a vessel proceeds when it is fully off plane, completely settled into the water and not creating an excessive wake. In no instance shall slow speed be interpreted as a speed less than that required to maintain steerageway. Requiring vessels within the temporary RNA to transit at a slow speed will allow law enforcement officers to identify, respond to, stop, and query vessels that are suspected of presenting a threat to the public, the Port of Savannah, and the G-8 Summit. Specifically, the slow speed requirement will allow the Coast Guard to adequately protect against threats of hostile and violent acts carried out by smaller vessels against commercial vessels or critical port facilities and infrastructure. The slow speed requirement enhances the ability of the Captain of the Port and his designated representatives to control the movement of vessels with the proposed temporary RNA which will further provide for the safety of the public, the Port of Savannah and the G-8 Summit.

Nothing in the RNA alleviates vessels or operators from complying with all state and local laws.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

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 would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in portions of the Savannah River and the Intracoastal Waterway covered by these proposed security zones and regulated navigation areas.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this 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.

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 the person listed under the **FOR FURTHER INFORMATION CONTACT** section.

Collection of Information

This proposed rule calls 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 will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule will not affect 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 rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may 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 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. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

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.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction, from further environmental documentation.

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 amends 33 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: 33 U.S.C. 1226, 1231; 50 U.S.C. 191, 195; 46 U.S.C. Chapter 701; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

2. From 8 a.m. on June 5, 2004, until 4 p.m. on June 11, 2004 add a new temporary § 165.T07-040 to read as follows:

§ 165.T07-040 Temporary Security Zone and Temporary Regulated Navigation Areas, Savannah River, GA

(a) *Locations.*

(1) *Security Zone, Savannah River.* An imaginary line starting at Channel Light 22, (Light List Volume III, Number 5090), at the intersection of the Middle River and the Savannah River and crossing due West over the Savannah River to Port Wentworth at approximate point 32°08'47" N, 081°06'36" W; then all waters of the Savannah River from shore to shore and surface to bottom south and east of this imaginary line downriver to an imaginary line starting at the southeast tip of Elba Island at approximate point 32°04'19" N, 080°58'27" W and extending due north across the Savannah River and through Red Buoy #36 to approximate point 32°04'40" N, 080°58'19" W. All coordinates are based upon North American Datum 83 (NAD 83).

(2) *Security Zone, Back River.* All waters of the Back River south and east

of the Highway 17 bridge from shore to shore and surface to bottom easterly to where the Back River meets the Savannah River.

(3) *Security Zone, South Channel Elba Island.* All waters of the South Channel south of Elba Island, from shore to shore and surface to bottom, from the intersection of the Savannah River and the South Channel and continuing southeasterly to an imaginary line starting at the southeast tip of Elba Island at approximate point 32°04'19" N, 080°58'27" W and extending southwesterly following the northern edge of Elba Island Cut channel to the northeast tip of McQueen Island at approximate position 32°04'08" N, 080°58'55" W. All coordinates are based upon North American Datum 83 (NAD 83).

(4) *Security Zone, Intracoastal Waterway Alternate Route.* All waters of the Intracoastal Waterway Alternate Route from shore to shore and surface to bottom from St. Augustine Creek Day Beacon A18 (Light List, Vol. III, no. 35960) to Day Beacon A12 (Light List, Vol. III, no. 35945).

(5) *Regulated navigation area; Savannah River, Lower Flats Range.* An imaginary line starting at the southeast tip of Elba Island at approximate point 32°04'19" N, 080°58'27" W and extending due north across the Savannah River and through Red Buoy #36 to approximate point 32°04'40" N, 080°58'19" W and all waters of the Savannah River southeast of that line, from shore to shore and surface to bottom in the vicinity of Lower Flats Range, to an imaginary line starting at the western tip of Jones Island at the intersection of the Intracoastal Waterway and extending southwesterly across the Savannah River intersecting through Green buoy "35" to Bird Island at approximate point 32°04'15" N, 080°58'00" W. All coordinates are based

upon North American Datum 83 (NAD 83).

(6) *Regulated navigation area; Intracoastal Waterway Fields Cut.* All waters of the Intracoastal Waterway from shore to shore and surface to bottom from Fields Cut Buoy 48 (Light List, Vol. III, no. 35865) at Wright River to Elba Island Cut Light 10 (Light List, Vol. III no. 35900) at St. Augustine Creek. All coordinates are based upon North American Datum 83 (NAD 83).

(b) *Definitions.* The following definitions apply to this section:

Designated Representatives 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 of Savannah, to regulate the movement of vessels within the RNA and restrict vessels and persons from entering the security zones.

Slow speed means the speed at which a vessel proceeds when it is fully off plane, completely settled in the water and not creating excessive wake. Due to the different speeds at which vessels of different sizes and configurations may travel while in compliance with this definition, no specific speed is assigned to slow speed. In no instance should slow speed be interpreted as a speed less than that required to maintain steerageway. A vessel is not proceeding at slow speed if it is:

(1) On a plane;

(2) In the process of coming up onto or coming off a plane; or

(3) Creating an excessive wake.

(c) *Regulations.* (1) *Security Zones.* The regulations in this paragraph apply to the zones in paragraphs (a)(1) through (a)(4) of this section. Entry into or transiting within the security zones is prohibited unless authorized by the Coast Guard Captain of the Port,

Savannah, Georgia or that officer's designated representatives. Vessels moored, docked or anchored in the security zones when they become effective must remain in place unless ordered by or given permission from the COTP to do otherwise. Persons desiring to enter or transit the areas encompassed by the security zones may contact the Coast Guard on VHF Channel Marine 16 or at (912) 652-4353 to seek permission to enter or transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or that officer's designated representatives.

(2) *Regulated Navigation Areas.* The regulations in this paragraph apply to the areas in paragraph (a)(5) and (a)(6) of this section.

(i) All vessels entering and transiting through the regulated navigation area shall proceed continuously and at a slow speed. In no instance should slow speed be interpreted as a speed less than that required to maintain steerageway. Nothing in this rule alleviates vessels or operators from complying with all state and local laws in the area.

(ii) All vessels shall comply with orders from the Coast Guard Captain of the Port of Savannah or that officer's designated representatives, regulating their speed, course, direction and movements within the RNA. All vessels shall obtain the permission of the Captain of the Port prior to entering or transiting via VHF Channel 16.

(d) *Effective period:* This section is effective from 8 a.m. on June 5, 2004, until 4 p.m. on June 11, 2004.

Dated: March 30, 2004.

Harvey E. Johnson, Jr.,
Rear Admiral, U.S. Coast Guard, Commander,
Seventh Coast Guard District.

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