



BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2024-0404]

RIN 1625-AA00

Safety Zone; Hackensack River, Kearny and Secaucus, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for certain waters of the Hackensack River. This action is necessary to provide for the safety of life on these navigable waters near the Portal Bridge during construction between November 2024 and December 2025. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port New York or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by docket number USCG-2024-

0404 using the Federal Decision-Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Jeffrey Yunker, Waterways Management Division, U.S. Coast Guard Sector New York; telephone 718-354-4195, email Jeffrey.M.Yunker@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port New York
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
PNB	Portal North Bridge
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

On April 2, 2024, Skanska Traylor Portal North Bridge (PNB) Joint Venture notified the Coast Guard that it is requesting three 14-day windows of waterway closures on the Hackensack River to install three new bridge spans at the PNB. The purpose of the requested 14-day windows is to deliver a 400-foot-long bridge span on a transportation barge that is 80 feet wide. The bridge span will be set on temporary shoring north of the existing bridge and a 100-foot-wide crane barge will then lift the bridge span from the temporary shoring using anchor lines and tugboats. The crane barge

will move into the new bridge alignment position using anchor lines and tugboats, jack the new bridge span, set onto the temporary supports, and slide the bridge into the final location. Once the bridge is set, the crane barge, support barges, and anchor lines will be removed out of the channel to prepare for the subsequent bridge span erection. This procedure will occur three times.

An additional fourth 14-day window is being considered to accommodate potential weather issues or schedule delays because of unforeseen circumstances. After setting the first bridge span, each 14-day window will be re-evaluated and may be narrowed so that marine traffic may be able to resume before the 14-day window is over.

The Captain of the Port New York (COTP) has determined that potential hazards associated with the bridge construction would be a safety concern for anyone within the construction area and adjacent navigable waters.

The purpose of this rulemaking is to protect personnel, vessels, and the marine environment from potential hazards created by the PNB construction activities between the New Jersey Turnpike/I-95 Fixed Bridge (River Mile 5.3) and 150 feet south of the existing Portal Bridge (River Mile 5.0) on the Hackensack River. The Coast Guard is proposing this rulemaking under the authority in 46 U.S.C. 70034.

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from November 15, 2024, through December 31, 2025. The safety zone would only be enforced during periods when heavy lift operations at the new bridge are in progress.

The anticipated dates for the first three 14-day windows of full channel closures are from 12:01 a.m. on November 15, 2024, through 11:59 p.m. on November 28, 2024;

from 12:01 a.m. on December 10, 2024, through 11:59 p.m. on December 23, 2024; and from 12:01 a.m. on January 13, 2025, through 11:59 p.m. on January 27, 2025.

Additionally, the fourth schedule from 12:01 a.m. on February 2, 2025, through 11:59 p.m. on February 15, 2025, is being considered. All these dates are tentative and subject to change due to weather, supply chain delays, or other unforeseen circumstances.

The Coast Guard is proposing this rule remain effective through December 31, 2025, in case the project is delayed due to unforeseen circumstances. The safety zone would cover all navigable waters of the Hackensack River between the New Jersey Turnpike/I-95 Fixed Bridge (River Mile 5.3) and 150 feet south of the existing Portal Bridge (River Mile 5.0). The duration of the zone is intended to ensure the safety of personnel, vessels, and these navigable waters during the bridge construction.

No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed 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 NPRM has not been designated a

“significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time of year of the safety zone. The bridge owner and contractor are coordinating the full waterway closures with the upstream Bergen County Utilities Authority who may transport treated sewage sludge via tug and barge or overland trucks. The safety zone is only in effect on the navigable waters of the Hackensack River between the New Jersey Turnpike/I-95 Fixed Bridge (River Mile 5.3) and 150 feet south of the existing Portal Bridge (River Mile 5.0). The Coast Guard will notify the public of the enforcement of this rule through appropriate means, which may include, but are not limited to, publication in the Local Notice to Mariners and Broadcast Notice to Mariners via VHF-FM marine channel 16.

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 proposed rule would 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 IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

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 rule would economically affect it.

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. 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 call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. 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.

C. Collection of Information

This proposed rule would 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 proposed 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 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. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email 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 proposed rule would not result in such an expenditure, we do discuss the potential effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed 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 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 a safety zone from the New Jersey Turnpike/I-95 Fixed Bridge (River Mile 5.3) and 150 feet south of the existing Portal Bridge (River Mile 5.0) on the Hackensack River. Normally such actions are categorically excluded from further review under paragraph L60 (a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary 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. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to

<https://www.regulations.gov>, type USCG-2024-0404 in the search box and click "Search." Next, look for this document in the **Search Results** column, and click on it. Then click on the **Comment** option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select "Supporting & Related Material" in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. Also, if you click on the Dockets tab and then the proposed rule, you should see a "Subscribe" option for email alerts. The option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

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 is proposing to amend 33 CFR 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: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

2. Add § 165.T01-0404 to read as follows:

§ 165.T01-0404 Safety Zone; Hackensack River, Kearny and Secaucus, NJ.

(a) *Location.* The following area is a safety zone: All the navigable waters of the Hackensack River between the New Jersey Turnpike/I-95 Fixed Bridge (River Mile 5.3) and 150 feet south of the existing Portal Bridge (River Mile 5.0).

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port New York (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative via VHF Channel 16 or by phone at (718) 354-4353 (Sector New York Command Center). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section is effective from November 15, 2024, through December 31, 2025, but will only be enforced during periods when heavy lift operations at the new bridge are in progress.

Jonathan A. Andrechik,

Captain, U.S. Coast Guard,

Captain of the Port, Sector New York.

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