



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket Number USCG-2025-1069]

RIN 1625-AA00

**Safety Zone; Hampton Roads Bridge-Tunnel Expansion Project, Hampton/Norfolk, VA.**

**AGENCY:** Coast Guard, Department of Homeland Security.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing a temporary rule to provide for safety zones for certain waters near Norfolk Harbor Entrance Reach, near the Hampton Roads Bridge Tunnel expansion project. This action is necessary to provide for the safety of life on navigable waters which are subject to existing safety zones that will expire later this month. This proposed rulemaking would prohibit persons and vessels from entering or occupying the safety zones unless authorized by the Captain of the Port, Sector Virginia or a designated representative or under conditions specified in this rulemaking. We invite your comments.

**DATES:** Comments and related material must be received by the Coast Guard on or before [INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** To submit comments and view available documents, go to <https://www.regulations.gov> and search for USCG-2025-1069.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rule, contact LCDR Justin Z. Strassfield, Sector Virginia Waterways

Management Division, U.S. Coast Guard; by phone, at (206) 815-7367, or by email, at VirginiaWayerways@uscg.mil .

## **SUPPLEMENTARY INFORMATION:**

### **I. Table of Abbreviations**

CFR Code of Federal Regulations

COTP U.S. Coast Guard Captain of the Port, Sector Virginia

DHS Department of Homeland Security

FR *Federal Register*

HRBT Hampton Roads Bridge-Tunnel

HRCP Hampton Roads Connector Partners

NPRM Notice of proposed rulemaking

NSRA Navigation Safety Risk Assessment

§ Section

U.S.C. United States Code

USCG United States Coast Guard

USACE United States Army Corps of Engineers

VDOT Virginia Department of Transportation

### **II. Background and Authority**

On September 16, 2021, after providing notice and an opportunity to comment, the Coast Guard promulgated a temporary rule entitled “Safety Zones; Hampton Roads Bridge-Tunnel Expansion Project, Hampton/Norfolk, VA.” See 86 FR 51612. Although the Coast Guard did not receive any comments within the comment period, the rule was preceded by a formal Navigational Safety Risk Assessment and by a series of outreach meetings held jointly by the Coast Guard and the Hampton Roads Connector Partners (HRCP), the Design-Build contractor for the Hampton Roads Bridge-Tunnel (HRBT) Expansion Project. See <https://www.federalregister.gov/d/2021-20006/p-19> for

additional details about the project and the earlier rulemaking.

The 2021 rule, which is codified at 33 CFR 165.519, will expire on December 25, 2025. As substantial work needs to be done to complete the HRBT expansion project, we are now proposing a new temporary rule with a different citation which would provide for safety zones in the current safety zone locations for up to 5 more years, until December 20th of 2030.

### **III. Discussion of the Rule**

The proposed rule would create safety zones which would be identical to those now codified at 33 CFR 165.519 and described at 86 FR 51612 except that the new rule, would have a different citation, a different expiration date, additional means of contacting the designated representatives, and a provision stating that, in the event the rule, or individual safety zones are no longer necessary, the COTP would provide notice that the rule, or any individual safety zones established by the rule, were no longer subject to enforcement. The full proposed regulatory text 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.

#### *A. 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. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial

number of small entities. 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 for the following reasons.

The Coast Guard is aware that there are some small entities who operate commercial fishing vessels that did fish and set traps in some of the proposed safety zones. There is a possibility that for a very small number of entities the economic impact of this proposed rule caused by exclusion from the safety zone areas they typically fish could constitute an economic impact. However, the Coast Guard concludes that the number of small entities significantly affected would not be substantial given the areas that vessels would be excluded from has already been closed to them for over 4 years.

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.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), if this proposed rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1-888-REG-FAIR (1-888-734-3247).

#### *B. Collection of Information*

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### *C. Federalism and Indian Tribal Governments*

We have analyzed this proposed rule under Executive Order 13132, Federalism,

and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in that Order.

Also, 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.

#### *D. Unfunded Mandates Reform Act*

As required by The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538), the Coast Guard certifies that this proposed rule will not result in an annual expenditure of \$100,000,000 or more (adjusted for inflation) by a State, local, or tribal government, in the aggregate, or by the private sector.

#### *E. 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 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 proposed rule is a safety zone. It is 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 Record of Environmental Consideration supporting this determination is available in the docket.

## **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 <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2025-1069 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 the docket.* To view available documents, find the docket as described in the previous paragraph, and then select "Supporting & Related Material" in the Document Type column. We will post public comments in our online docket. Additional information is on the <https://www.regulations.gov> Frequently Asked Questions webpage.

*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. 01.4.

2. Add § 165.T05-1069 to read as follows:

**§ 165.T05-1069 Safety Zone; Hampton Roads Bridge-Tunnel Expansion Project, Hampton/Norfolk, VA.**

(a) *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, Sector Virginia (COTP) in the enforcement of the safety zone. The term also includes an employee or contractor of Hampton Roads Connector Partners (HRCP) for the sole purposes of designating and establishing safe transit corridors, to permit passage into or through these safety zones, or to notify vessels and individuals that they have entered a safety zone and are required to leave.

(b) *Locations and zone-specific requirements--(1) Zone 1, Hampton Flats Mooring Area--(i) Location.* All waters of the Hampton Flats, from surface to bottom, encompassed by a line connecting the following points beginning at 36°59'40.41" N, 76°22'10.66" W, thence to 37°00'01.84" N, 76°21'01.69" W, thence to 36°59'52.62" N, 76°20'57.23" W, thence to 36°59'31.19" N, 76°22'06.20" W, and back to the beginning point.

(ii) *Requirements.* No vessel or person may enter or remain in the safety zone without permission of the COTP, HRCP, or designated representative. Mariners must observe lighted marker buoys along the perimeter and at each of the corners marking the safety zone.

(2) *Zone 2, Phoebus Safe Harbor Area--(i) Location.* All waters west of the

Phoebus Channel, from surface to bottom, encompassed by a line connecting the following points beginning at 37°00'34.26" N, 76°19'10.58" W, thence to 37°00'23.97" N, 76°19'06.16" W, thence to 37°00'22.52" N, 76°19'11.41" W, thence to 37°00'32.81" N, 76°19'15.81" W, and back to the beginning point.

(ii) *Requirements.* No vessel or person may enter or remain in the safety zone during announced enforcement periods without permission of the COTP, HRCPP, or designated representative. Such enforcement periods will be announced by Sector Virginia Broadcast Notice to Mariners and broadcasts on VHF-FM radio. During enforcement periods, mariners shall observe lighted marker buoys along the perimeter and at each of the corners marking the safety zone.

(3) *Zone 3, Willoughby Bay Mooring Area--(i) Location.* All waters of Willoughby Bay, from surface to bottom, in the area encompassed by a line connecting the following points beginning at 36°57'48.68" N, 76°17'08.20" W, thence to 36°57'44.84" N, 76°16'44.48" W, thence to 36°57'35.31" N, 76°16'42.80" W, thence to 36°57'28.78" N, 76°16'51.75" W, thence to 36°57'33.17" N, 76°17'19.43" W, and back to the beginning point.

(ii) *Requirements.* No vessel or person may enter or remain in the safety zone without permission of the COTP, HRCPP, or designated representative. Mariners must observe lighted marker buoys along the perimeter and at each of the corners marking the safety zone.

(4) *Zone 4, North Highway Bridge Trestle and North Island--(i) Location.* All waters, from surface to bottom, located within 300 feet of the east or west side of the Hampton Roads Bridge-Tunnel's north highway bridge trestle, including North Island, to the shore of the City of Hampton. No vessel or person may enter or remain in the safety zone without permission of the COTP, HRCPP, or designated representative.

(ii) *Requirements.* All mariners attempting to enter or depart the Hampton Creek

Approach Channel or the Phoebus Channel in the vicinity of the North Island must proceed with extreme caution and maintain a safe distance from construction equipment.

(5) *Zone 5, South Highway Bridge Trestle and South Island--(i) Location.* All waters, from surface to bottom, located within 300 feet from the east or west side of the Hampton Roads Bridge-Tunnel's south highway bridge trestle, including South Island, to the shore of the City of Norfolk.

(ii) *Requirements.* No vessel or person may enter or remain in the safety zone without permission of the COTP, HRCP, or designated representative. HRCP may establish and post visual identification of safe transit corridors that vessels may use to freely proceed through the safety zone. All mariners attempting to enter or depart the Willoughby Bay Approach Channel in the vicinity of the South Island shall proceed with extreme caution and maintain a safe distance from construction equipment.

(6) *Zone 6, Willoughby Bay Bridge--(i) Location.* All waters, from surface to bottom, located along the Willoughby Bay Bridge highway trestle and extending 50 feet to the north side of the bridge and 300 feet to the south side of the bridge along the length of the highway trestle, from shore to shore within the City of Norfolk.

(ii) *Requirements.* No vessel or person may enter or remain in the safety zone without permission of the COTP, HRCP, or designated representative, except that vessels are allowed to transit through marked safe transit corridors that HRCP shall establish for the purpose of providing navigation access for residents located north of the Willoughby Bay Bridge through the safety zone. All mariners attempting to enter or depart residences or commercial facilities north of the Willoughby Bay Bridge through the safe transit corridors or other areas of the safety zone when granted permission shall proceed with caution and maintain a safe distance from construction equipment.

(c) *General requirements.* (1) Under the general safety zone regulations in subpart C of this part, no vessel or person may enter or remain in any safety zone described in

paragraph (b) of this section unless authorized by the COTP, HRCP, or designated representative. If a vessel or person is notified by the COTP, HRCP, or designated representative that they have entered one of these safety zones without permission, they are required to immediately leave in a safe manner following the directions given.

(2) Mariners requesting to transit any of these safety zones must first contact the HRCP designated representative, the on-site foreman, via phone at 7577036060 or VHF-FM channels 13 and 16. If permission is granted, mariners must proceed at their own risk and strictly observe any and all instructions provided by the COTP, HRCP, or designated representative to the mariner regarding the conditions of entry to and exit from any location within the fixed safety zones.

(d) *Enforcement.* The Sector Virginia COTP may enforce the regulations in this section and may be assisted by any Federal, state, county, or municipal law enforcement agency.

(e) *Enforcement period.* The safety zones in this section will be in effect from December 25, 2025 until December 20, 2030. If the Captain of the Port, Sector Virginia determines this rule, or any of the safety zones established by this rule are no longer necessary, we will provide notice by marine broadcasts and local notice to mariners that the rule, or individual safety zones established by the rule, are no longer subject to enforcement.

Peggy M. Britton  
Captain, U.S. Coast Guard,  
Captain of the Port, Sector Virginia