

“PERTAINING TO ESTABLISHMENT OF RESTRICTED AREAS”

PREAMBLE

This regulation parallels regulations established by the Federal Government. The adoption of this regulation affords the Virginia Marine Police authority to enforce Virginia laws prohibiting entrance into the restricted area. This regulation is adopted pursuant to the authority contained in Section 28.2-103 and 28.2-106.2 of the Code of Virginia. This regulation is adopted and is effective on October 1, 2004.

4VAC 20-1045-10. PURPOSE.

The purpose of this regulation is to enhance the physical security of bridge and tunnel complexes located in waters of the Commonwealth of Virginia. This regulation is part of a comprehensive plan to protect the public, environment and economic interests from sabotage and other subversive acts, accidents, incidents of a similar nature.

4 VAC 20-1045-20. ACTIVATION AND ENFORCEMENT OF RESTRICTED AREAS.

- A. Pursuant to §28.2-106.2 of the Code of Virginia, the following restricted areas are established adjacent to all bridge and tunnel complexes located in waters of the Commonwealth of Virginia including those that are privately owned. The restricted areas associated with this regulation shall only be activated when there is a specific threat or condition of heightened security for the port and shall remain active for the duration of the threat. Once the threat passes, the restricted area will be de-activated until such time as it is needed again. Restricted areas may be activated at any one bridge or all of the bridges. This decision is discretionary. The restricted areas authorized by this regulation are intended to complement appropriate threat-based restrictions on vehicular traffic at the bridge and tunnel complexes.
- B. Restricted areas encompass all waters within 100 yards of any portion of any structure attached to, or associated with any bridge or tunnel complex located in, on, or under navigable waters of the United States, located within the Commonwealth of Virginia. This authorization begins and ends at the ordinary Mean High Water Line. The State Coordinator of Emergency Management Virginia Department of Emergency Management, or his designee, or the Commissioner of the Virginia Marine Resources Commission, or his designee, may increase the overall size of a restricted area as deemed necessary for the safety and security of the Port, Public, Environment or Economy.
- C. No vessels or persons may enter restricted areas established in accordance with this regulation without the permission of persons in charge, or persons or agencies authorized to act in his/her behalf.
 - 1. Patrol vessels enforcing the restricted area shall monitor marine channels (VHF) 13 and 16 at all times so vessels approaching a restricted area can contact them for instructions. Commercial and recreational vessels shall contact the Patrol Commander on channel 13 or 16 prior to entering a restricted area.

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2. City, State and Federal law enforcement vessels shall contact the Patrol Commander of a restricted area on marine channel 13 or 16 or other channel designated by Port Operations Teams/Commanders/COTP prior to entering a restricted area.

- D. Any vessels and/or persons that needs to transit a restricted area because it encompasses a designated channel, fairway or established route of navigation, and where no reasonable alternative route of navigation exist must contact the Patrol Commander prior to entering the restricted area. This regulation authorizes security personnel to ascertain the identity and intent of the vessel. If a determination is made that the vessel and/or persons are a threat to a designated asset located within the restricted area, security units may take actions as provided by law or regulation that are deemed necessary to protect designated assets.

- E. The primary enforcement agency for the Commonwealth of Virginia shall be the Virginia Marine Police, the law enforcement division of the Virginia Marine Resources Commission and or agents or agencies authorized to act in their behalf.

- F. Restricted areas under this regulation may be activated by the State Coordinator of Emergency Management Virginia Department of Emergency Management, or his designee, the Commissioner of the Virginia Marine Resources Commission, or his designee, or the Governor of the Commonwealth of Virginia, when specific information indicating that the bridge and tunnel complexes within the Commonwealth of Virginia have been threatened/targeted or a condition of heightened security for the ports exist. The activation of a restricted area shall be used in conjunction with appropriate vehicular restrictions unless the information obtained indicates that a specific waterborne threat exists.

- G. The Commissioner of the Virginia Marine Resources Commission, or his designee, shall notify the public that a restricted area has been activated in association with the provisions of this regulation via the most efficient means which may include, but are not limited to, local broadcast notice to mariners, posting of signs, media releases, posting of public notices, patrol vessels and vehicles with loud speakers broadcasting from the bridges and waterways, or any other means necessary to inform the public.

- H. The Commissioner of the Virginia Marine Resources Commission, or his designee, shall notify the public that a restricted area has been de-activated once a threat is determined to no longer exist via the most efficient means which may include, but are not limited to, local broadcast notice to mariners, media releases and posting of public notices.

4 VAC 20-1045-30. PENALTY.

Any person violating the provisions of this regulation shall be guilty of a Class I misdemeanor.

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This is to certify that the foregoing is a true and accurate copy of the regulation passed by the Marine Resources Commission, pursuant to authority vested in the Commission by §28.2-201 of the Code of Virginia, and recorded in the Commission’s minute book, at meeting held in Newport News, Virginia on September 28, 2004.

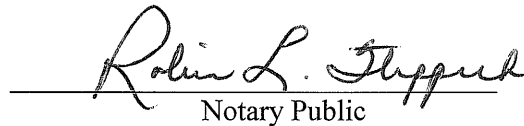
COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION



BY: William A. Pruitt
Commissioner

Subscribed and sworn to before me this 30th day of September 2004.

My Commission expires July 31, 2005.



Notary Public