

**§ 45.15 Other claims procedures and administrative matters.**

(a) *Payment of damages.* In the event damages are awarded, the claimant or the claimant's estate is entitled to payment of those damages.

(b) *Communication through counsel.* If the claimant is represented by counsel, all communications will be through the claimant's counsel.

(c) *Remedies for filing false claims or making false statements.* Remedies available to the United States for filing false claims with Federal agencies or making false statements to Federal agencies and officials are applicable to claims and statements made in connection with claims under this part. Applicable authorities include 31 U.S.C. 3729 and 18 U.S.C. 1001. False claims and claims supported by false statements will be denied.

(d) *Reports to the Defense Health Agency.* As provided in section 2733a(e), not later than 30 calendar days after a Final Determination of medical malpractice or the payment of all or a portion of a claim under this part, a report documenting that determination is sent to the Director, Defense Health Agency to be used for all necessary and appropriate purposes, including those actions undertaken as part of DoD's Clinical Quality Management Program.

(e) *Monitoring claims adjudications under this part.* The General Counsel of the Defense Health Agency will monitor the performance of the claims adjudications structures and procedures under this part, including accounting for the number of claims processed under this part and the resolution of each claim and identifying means to enhance the effectiveness of the claims adjudication process.

(f) *Authority for actions under this part.* To ensure consistency and compliance with statutory requirements, supplementation of the procedures in this part is not permitted without approval in writing by the General Counsel of the Department of Defense. The General Counsel of the Department of Defense, under DoD Directive 5145.01, "General Counsel of the Department of Defense," may delegate in writing authority for making Initial and Final Determinations, and other actions by DoD officials under this part. As used in this part, and at DoD's discretion, "DoD" may include, but is not limited to, Military Departments.

Dated: June 14, 2021.

**Patricia L. Toppings,**  
OSD Federal Register Liaison, Department of Defense.

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**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[Docket No. USCG-2021-0390]

**Safety Zones; Annual Event in the Captain of the Port Buffalo Zone**

**AGENCY:** Coast Guard, Department of Homeland Security (DHS).

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce a safety zone located in Federal regulations for a recurring marine event. This action is necessary and intended for the safety of life and property on navigable waters during these events. During each enforcement period, no person or vessel may enter the respective safety zone without the permission of the Captain of the Port Buffalo.

**DATES:** The regulations in 33 CFR 165.939, Table 165.939, entry (a)(1), will be enforced from 9:45 p.m. to 11:15 p.m. on June 18, 2021.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this notification of enforcement, call or email LCDR William Fitzgerald, Chief of Waterways Management, U.S. Coast Guard Marine Safety Unit Cleveland; telephone 216-937-0124, email [william.j.fitzgerald@uscg.mil](mailto:william.j.fitzgerald@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the Safety Zones; Annual Events in the Captain of the Port Buffalo Zone listed in 33 CFR 165.939, Table 165.939, entry (a)(1), in Vermillion, OH, on all U.S. waters within a 420 foot radius of the fireworks launch site located at position 41°25'45" N and 082°21'54" W, (NAD 83) for the Festival of the Fish.

Pursuant to 33 CFR 165.23, entry into, transiting, or anchoring within the safety zone during an enforcement period is prohibited unless authorized by the Captain of the Port Buffalo or a designated representative. Those seeking permission to enter the safety zone may request permission from the Captain of Port Buffalo via channel 16, VHF-FM. Vessels and persons granted permission to enter the safety zone shall obey the directions of the Captain of the Port Buffalo or a designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notification of enforcement is issued under authority of 33 CFR

165.939 and 5 U.S.C. 552(a). In addition to this notification of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Broadcast Notice to Mariners or Local Notice to Mariners. If the Captain of the Port Buffalo determines that the safety zone need not be enforced for the full duration stated in this notification she may use a Broadcast Notice to Mariners to grant general permission to enter the respective safety zone.

**Lexia M. Littlejohn,**

*Captain, U.S. Coast Guard, Captain of the Port Buffalo.*

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**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[Docket Number USCG-2021-0383]

RIN 1625-AA00

**Safety Zone; M/V ZHEN HUA 26 Transit; Everport Container Terminal, San Pedro, California**

**AGENCY:** Coast Guard, Department of Homeland Security (DHS).

**ACTION:** Temporary final rule.

**SUMMARY:** The U.S. Coast Guard is establishing a temporary moving safety zone around the M/V ZHEN HUA 26 while it transits through the navigation channel during its transit to Everport Container Terminal, Berth 227, in San Pedro, California. This safety zone is necessary to protect personnel, vessels, and the marine environment from hazards associated with the arms of three ship-to-shore gantry cranes which will extend more than 200 feet out from the transiting vessel when the arms are lowered, and from the vessel's stability condition due to an air draft greater than 300 feet when the cranes are in the up position. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port Los Angeles-Long Beach or a designated representative.

**DATES:** This rule is effective without actual notice from June 17, 2021, through 11:59 p.m. on June 21, 2021. For the purposes of enforcement, actual notice will be from 12:01 a.m. on June 11, 2021, until June 17, 2021.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2021–0383 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rulemaking, call or email LCDR Maria Wiener, U.S. Coast Guard Sector Los Angeles-Long Beach; telephone (310) 357–1603, email [maria.c.wiener@uscg.mil](mailto:maria.c.wiener@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
Pub. L. Public Law  
§ Section  
U.S.C. United States Code

##### II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking with respect to this rule because it is impracticable. The Coast Guard received notification and details of the transit on May 15, 2021, and therefore lacks sufficient time to provide a reasonable comment period and respond to comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. It is contrary to the public interest to delay the effective date of this rule because the safety zone must be effective by June 11, 2021 to protect vessels and persons during the upcoming transit.

##### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Los Angeles-Long Beach has determined that potential hazards associated with the transit of the M/V ZHEN HUA 26 between June 11, 2021 through June 21, 2021, will be a safety concern for anyone within a

500-foot radius of the vessel during its transit to Everport Container Terminal, Berth 227, while the vessel is within the Port of Los Angeles-Long Beach and the waters inside the Federal breakwaters bounding San Pedro Bay or on the waters within three nautical miles seaward of the Federal breakwaters, respectively. The effect of the safety zone is to restrict navigation in the vicinity of the M/V ZHEN HUA 26. For this reason, a safety zone is needed to protect personnel, vessels, and the marine environment in the navigable waters around the M/V ZHEN HUA 26 during its transit to Berth 227 at the Everport Container Terminal in San Pedro, CA.

##### IV. Discussion of the Rule

This rule establishes a temporary safety zone from 12:01 a.m. on June 11, 2021 through 11:59 p.m. on June 21, 2021 during the transit of the M/V ZHEN HUA 26. While the M/V ZHEN HUA 26 is within the Port of Los Angeles-Long Beach and the waters inside the Federal breakwaters bounding San Pedro Bay or on the waters within three nautical miles seaward of the Federal breakwaters, respectively, the safety zone will encompass the navigable waters around and under the vessel, from surface to bottom, within a circle formed by connecting all points 500 feet out from the vessel. The safety zone is needed to protect personnel, mariners, and vessels from hazards associated with ship-to shore gantry crane arms which will extend more than 200 feet out from the transiting vessel.

Vessel traffic will be able to safely transit around the M/V ZHEN HUA 26 and the safety zone. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule allows vessels to seek permission to enter the zone.

##### V. Regulatory Analyses

We developed this 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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not

been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the limited duration and narrowly tailored geographic area of the safety zone. This safety zone impacts a 500-foot-radius area of the Port of Los Angeles-Long Beach and the waters inside the Federal breakwaters bounding San Pedro Bay or on the waters within three nautical miles seaward of the Federal breakwaters, respectively for a limited duration. While the safety zone encompasses a eleven-day period to account for uncertain transit delays of the M/V ZHEN HUA 26, the safety zone will only be enforced for the duration of the vessel’s inbound transit, which is expected to last less than 24 hours, and that period will be announced via Broadcast Notice to Mariners. Vessels desiring to transit through the safety zone may do so upon express permission from the COTP or the COTP’s designated representative.

###### 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 rule will 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 V.A above, this rule will not have a significant economic impact on any vessel owner or operator. 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 rule. If the 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 in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees

who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This rule will 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 E.O. 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 rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

Also, this rule does not have tribal implications under E.O. 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.

#### 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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Management 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 rule involves establishment of a temporary safety zone, limited in duration and size. This rule is categorically excluded from further review under paragraph L60(a) of Section L of the Department of Homeland Security Instruction Manual 023-01-001-01 (series). A Record of Environmental Consideration (REC) supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact 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.

#### 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 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; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T11-056 to read as follows:

#### **§ 165.T11-056 Safety Zone; Los Angeles Ship-to-Shore Crane Arrival, Los Angeles-Long Beach, CA.**

(a) *Location.* The following area is a safety zone: all navigable waters of the port of Los Angeles-Long Beach, from surface to bottom, within a circle formed by connecting all points 500 feet out from the vessel, M/V ZHEN HUA 26, during the vessel's transit within the Port of Los Angeles-Long Beach and the waters inside the Federal breakwaters bounding San Pedro Bay or on the

waters within three nautical miles seaward of the Federal breakwaters, respectively.

(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 or a Federal, State, or local officer designated by or assisting the Captain of the Port Los Angeles-Long Beach (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) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative. Persons and vessels may request permission to enter the safety zone on VHF-23A or through the 24-hour Command Center at telephone (310) 521-3801.

(d) *Enforcement period.* This section will be enforced from 12:01 a.m. on June 11, 2021 through 11:59 p.m. on June 21, 2021, during the inbound and outbound transit of the M/V ZHEN HUA 26 or as announced via Broadcast Notice to Mariners.

(e) *Information broadcasts.* The COTP or the COTP's designated representative will notify the maritime community of periods during which this zone will be enforced, in accordance with § 165.7.

Dated: June 10, 2021.

**R.E. Ore,**

*Captain, U.S. Coast Guard, Captain of the Port, Los Angeles Long Beach.*

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