

in writing, that a return of the partnership for an eligible taxable year has been selected for examination (a notice of selection for examination).

(2) *Form and manner of making the election*—(i) *In general.* The partnership makes an election under this section by providing a written statement with the words “Election under Section 1101(g)(4)” written at the top that satisfies the requirements of paragraph (b)(2) of this section to the individual identified in the notice of selection for examination as the IRS contact regarding the examination.

(ii) *Statement requirements.* A statement making an election under this section must be in writing and be dated and signed by the tax matters partner, as defined under section 6231(a)(7) (prior to amendment by the BBA), and the applicable regulations, or an individual who has the authority to sign the partnership return for the taxable year under examination under section 6063, the regulations thereunder, and applicable forms and instructions. The fact that an individual dates and signs the statement making the election described in this paragraph (b) shall be prima facie evidence that the individual is authorized to make the election on behalf of the partnership. A statement making an election must include—

(A) The partnership’s name, taxpayer identification number, and the partnership taxable year for which the election described in this paragraph (b) is being made;

(B) The name, taxpayer identification number, address, and daytime telephone number of the individual who signs the statement;

(C) Language indicating that the partnership is electing application of section 1101(c) of the BBA for the partnership return for the eligible taxable year identified in the notice of selection for examination;

(D) The information required to properly designate the partnership representative as defined by section 6223 as amended by the BBA, which must include the name, taxpayer identification number, address, and daytime telephone number of the partnership representative and any additional information required by applicable regulations, forms and instructions, and other guidance issued by the IRS;

(E) The following representations—

(1) The partnership is not insolvent and does not reasonably anticipate becoming insolvent before resolution of any adjustment with respect to the partnership taxable year for which the election described in this paragraph (b) is being made;

(2) The partnership has not filed, and does not reasonably anticipate filing, voluntarily a petition for relief under title 11 of the United States Code;

(3) The partnership is not subject to, and does not reasonably anticipate becoming subject to, an involuntary petition for relief under title 11 of the United States Code; and

(4) The partnership has sufficient assets, and reasonably anticipates having sufficient assets, to pay a potential imputed underpayment with respect to the partnership taxable year that may be determined under subchapter C of chapter 63 of the Internal Revenue Code as amended by the BBA; and

(F) A representation, signed under penalties of perjury, that the individual signing the statement is duly authorized to make the election described in this paragraph (b) and that, to the best of the individual’s knowledge and belief, all of the information contained in the statement is true, correct, and complete.

(iii) *Notice of Administrative Proceeding.* Upon receipt of the election described in this paragraph (b), the IRS will promptly mail a notice of administrative proceeding to the partnership and the partnership representative, as required under section 6231(a)(1) as amended by the BBA. Notwithstanding the preceding sentence, the IRS will not mail the notice of administrative proceeding before the date that is 30 days after receipt of the election described in paragraph (b) of this section.

(c) *Election for the purpose of filing an administrative adjustment request (AAR) under section 6227 as amended by the BBA*—(1) *In general.* A partnership that has not been issued a notice of selection for examination as described in paragraph (b)(1) of this section may make an election with respect to a partnership return for an eligible taxable year for the purpose of filing an AAR under section 6227 as amended by the BBA. Once an election under this paragraph (c) is made, all of the amendments made by section 1101 of the BBA, except section 6221(b) as added by the BBA, apply with respect to the partnership taxable year for which such election is made.

(2) *Time for making the election.* No election under this paragraph (c) may be made before January 1, 2018.

(3) *Form and manner of making an election.* An election under this paragraph (c) must be made in the manner prescribed by the IRS for that purpose in accordance with applicable regulations, forms and instructions, and other guidance issued by the IRS.

(4) *Effect of filing an AAR before January 1, 2018.* Except in the case of an election made in accordance with paragraph (b) of this section, an AAR filed on behalf of a partnership before January 1, 2018, is deemed for purposes of paragraph (d)(2) of this section, to be an AAR filed under section 6227(c) (prior to amendment by the BBA) or an amended return of partnership income, as applicable.

(d) *Eligible taxable year*—(1) *In general.* For purposes of this section, the term *eligible taxable year* means any partnership taxable year beginning after November 2, 2015 and before January 1, 2018, except as provided in paragraph (d)(2) of this section.

(2) *Exception if AAR or amended return filed or deemed filed.*

Notwithstanding paragraph (d)(1) of this section, a partnership taxable year is not an eligible taxable year for purposes of this section if for the partnership taxable year—

(i) The tax matters partner has filed an AAR under section 6227(c) (prior to amendment by the BBA),

(ii) The partnership is deemed to have filed an AAR under section 6227(c) (prior to the amendment by the BBA) in accordance with paragraph (c)(4) of this section, or

(iii) An amended return of partnership income has been filed or has been deemed to be filed under paragraph (c)(4) of this section.

(e) *Applicability date.* These regulations are applicable to returns filed for partnership taxable years beginning after November 2, 2015 and before January 1, 2018.

(f) *Expiration date.* This section will expire on August 5, 2019.

**John M. Dalrymple,**

*Deputy Commissioner for Services and Enforcement.*

Approved: July 6, 2016.

**Mark J. Mazur,**

*Assistant Secretary for Tax Policy.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2016–0746]

RIN 1625–AA00

**Safety Zone; M/V Zhenhuan 14 Wando Terminal Crane Movement; Charleston, SC**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a 100 yard temporary moving safety zone around the M/V Zhenhuan 14 during its inbound and outbound transit as well as all movements in between the Charleston Harbor entrance buoy and the Wando Welch Terminal on the Charleston Harbor, and Wando River, Charleston, SC. The M/V Zhenhuan 14 will be transporting 5 gantry cranes between the dates of August 5, 2016 through August 17, 2016. The safety zone is necessary to protect the public from hazards associated with transporting the large cranes. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Charleston or a designated representative.

**DATES:** This rule is effective from August 5, 2016 through August 17, 2016.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> type USCG-2016-0746 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 on this rule, call or email Lieutenant John Downing, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740-3184, email [John.Z.Downing@uscg.mil](mailto:John.Z.Downing@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR Code of Federal Regulations  
 DHS Department of Homeland Security  
 NPRM Notice of proposed rulemaking  
 § 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 (NPRM) with respect to this rule because the Coast Guard was notified of this

situation only 10 days prior to the vessel arrival. It is impracticable to publish a NPRM because we must establish this safety zone by August 5, 2016 to protect vessels and people in the vicinity of the M/V Zhenhuan 14's transit.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to respond to the safety hazards associated with the transit of the M/V Zhenhuan 14.

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

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Charleston (COTP) has determined that potential hazards associated with the Transit of the M/V Zhenhuan 14 will be a safety concern for anyone within a 100-yard radius around the outer most points of the vessel. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the vessel is transiting.

The legal basis for this rule is the Coast Guard's Authority to establish a safety zone: 33 U.S.C. 1231. The purpose of the proposed rule is to ensure safety of life on the navigable water of the United States during the transit of the M/V Zhenhuan 14.

**IV. Discussion of the Rule**

This rule establishes a safety zone on August 5, 2016 through August 17, 2016 during all movements of the M/V Zhenhuan 14 with its cranes in the downward position. The vessel is 815 ft long with a beam of 450 ft with the cranes in the downward position. The safety zone will cover all navigable waters within a 100-yard radius around the outer most points of the vessel. The duration of the zone is intended to protect personnel, vessels, and the marine environment while the vessel is transiting the Charleston Harbor, and Wando River, Charleston, SC. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

**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 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

The economic impact of this rule is not significant for the following reasons:

- (1) Although persons and vessels will not be able to enter, transit through, anchor in, or remain within the regulated area without authorization from the Captain of the Port Charleston or a designated representative, they will be able to operate in the surrounding area during the enforcement periods;
- (2) persons and vessels will still be able to enter, transit through, anchor in, or remain within the regulated area if authorized by the Captain of the Port Charleston or a designated representative; and
- (3) the Coast Guard will provide advance notification of the regulated area to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

**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 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 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 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. If you believe this rule has implications for federalism or Indian tribes, please contact 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 rule will not result in such 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 and Commandant Instruction M16475.ID, 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 rule involves a temporary safety zone, that will prohibit entry within a 100-yard radius around the outer most points of the vessel.

#### 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

Marine safety, Navigation (water), Reporting and recordkeeping requirements, 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:** 33 U.S.C. 1226, 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, and 160.5; Department of Homeland Security Delegation No. 0170.1.

- 2. Add a temporary § 165.T07-0746 to read as follows:

#### § 100.T07-0746 Safety Zone; M/V Zhenhuan 14 Wando Terminal Crane Movement; Charleston, SC.

(a) *Regulated area.* The following regulated area is a moving safety zone: All waters of the Charleston Harbor and Wando Rivers within a 100 yard radius around the outer most points of the M/V Zhenhuan 14 while the cranes are in the downward position. The safety zone will start in Charleston Harbor, in approximate position 32°46'10" N., 79°55'15" W. and transit to the Wando

Welch Terminal, in position 32°50'02" N., 79°53'29" W. During the outbound transit the M/V Zhenhuan 14 will proceed from the Wando Welch Terminal in approximate position 32°50'02" N., 79°53'29" W. to the Charleston Harbor entrance in approximate position 32°46'10" N., 79°55'15" W. All coordinates are North American Datum 1983.

(b) *Definition.* As used in this section, "designated representative" 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 Charleston in the enforcement of the regulated areas.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at (843) 740-7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Marine Safety Information Bulletins, Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement period.* This rule will be enforced when the M/V Zhenhuan 14 is transiting Charleston Harbor between August 5, 2016 through 17, 2016.

Dated: August 1, 2016.

**G.L. Tomasulo,**

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

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