This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0414]

RIN 1625–AA00

Safety Zone; M/V ZHEN HUA 24, Crane Delivery Operation, Chesapeake Bay and Patapsco River, Baltimore, MD

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 Chesapeake Bay and Patapsco River. This action is necessary to provide for the safety of life on these navigable waters during the movement of the M/V ZHEN HUA 24 while it is transporting four new Super-Post Panamax container cranes to the Port of Baltimore. The vessel transit is taking place from Shanghai, China. The M/V ZHEN HUA 24 is anticipated to arrive between August 26, 2021, and September 15, 2021.

This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Maryland-National Capital Region 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 August 11, 2021.

ADDRESS: You may submit comments identified by docket number USCG–2021–0414 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.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email MST3 Melissa Kelly, Sector Maryland-NCR, Waterways Management Division, U.S. Coast Guard: Telephone (410) 576–2596, Melissa.C.Kelly@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section

II. Background, Purpose, and Legal Basis

On June 28, 2021, Ports America Chesapeake, LLC notified the Coast Guard that the M/V ZHEN HUA 24 will be transporting four new Super-Post Panamax container cranes to the Port of Baltimore. The vessel transit is taking place from Shanghai, China. The M/V ZHEN HUA 24 is anticipated to arrive between August 26, 2021, and September 15, 2021. The current estimated arrival date is September 5, 2021, but is subject to change. These cranes will be delivered to, and installed at, the Seagirt Marine Terminal at Baltimore, MD. Prior to transiting to Baltimore, MD, the vessel will arrive in the Chesapeake Bay near Annapolis, MD, to anchor and conduct appropriate cargo configuration for transit. The cranes exceed the beam of the M/V ZHEN HUA 24 on the port side by approximately 129 feet and on the starboard side by approximately 228 feet. The total beam for the vessel with the cranes aboard is approximately 489 feet. The maximum height of the cranes aboard the vessel is approximately 176 feet. This beam width and cargo height will severely restrict the M/V ZHEN HUA 24’s ability to maneuver and create a hazard to navigation if required to meet or pass other large vessels transiting the navigation channels. Because of the size of the cargo and the width of the navigation channels, vessels will not be able to transit around the M/V ZHEN HUA 24, necessitating closure of the navigation channels.

The safety zone would cover all navigable waters of the Chesapeake Bay and Patapsco River, safety concerns will be heightened due to the small margin of error for safe passage. The vessel transit in this area is anticipated to occur during daylight hours only, and in wind conditions of 25 knots or less. Hazards associated with the movement of a large freight vessel with an oversize cargo severely restricted in its ability to maneuver while transiting confined shipping channels include injury or loss of life and damage to property and the environment resulting from collisions with other vessels. The COTP Maryland-National Capital Region has determined that potential hazards associated with the crane delivery operation would be a safety concern for any vessel required to transit the navigation channels in the Chesapeake Bay and the Patapsco River that would meet, pass, or overtake the M/V ZHEN HUA 24.

The Coast Guard is requesting that interested parties provide comments within a shortened comment period of 15 days instead of the typical 30 days for this notice of proposed rulemaking. The Coast Guard believes the 15-day comment period still provides for a reasonable amount of time for interested parties to review the proposal and provide informed comments on it while also ensuring that the Coast Guard has time to review and respond to any significant comments and has a final rule in effect in time for the scheduled event.

The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone during the inbound transit of the M/V ZHEN HUA 24. The M/V ZHEN HUA 24 is currently anticipated to arrive at Baltimore sometime between August 26, 2021, and September 15, 2021. The current estimated arrival date is September 5, 2021, but is subject to change. Inbound transit is expected to last approximately 7 hours.

The safety zone would cover all navigable waters of the Chesapeake Bay and Patapsco River within 500 feet of the M/V ZHEN HUA 24 while it is transiting between Chesapeake Channel Lighted Buoy 90 (LLNR 7825) in position 38°58′18.53″ N, 076°23′18.96″ W, and the Seagirt Marine Terminal in position 39°15′02.43″ N, 076°32′20.50″ W, Baltimore, MD. During the transit of the M/V ZHEN HUA 24 under the William P. Lane, Jr. Memorial (US–50/301) Bridges across the Chesapeake Bay and the Francis Scott Key (I–695) Bridge across the Patapsco River, safety concerns will be heightened due to the small margin of error for safe passage. The vessel transit in this area is anticipated to occur during daylight hours only, and in wind conditions of 25 knots or less. Hazards associated with the movement of a large freight vessel with an oversize cargo severely restricted in its ability to maneuver while transiting confined shipping channels include injury or loss of life and damage to property and the environment resulting from collisions with other vessels. The COTP Maryland-National Capital Region has determined that potential hazards associated with the crane delivery operation would be a safety concern for any vessel required to transit the navigation channels in the Chesapeake Bay and the Patapsco River that would meet, pass, or overtake the M/V ZHEN HUA 24.
vessels and these navigable waters before, during, and after the scheduled crane delivery operation. 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 Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size and duration of the safety zone, which would impact only vessel traffic required to transit certain navigation channels of the Chesapeake Bay and the Patapsco River for a total no more than 7 enforcement-hours. Although these waterways support both commercial and recreational vessel traffic, the downriver portions of the waterway would be reopened as the M/V ZHEN HUA 24 transits northward in the Chesapeake Bay and up the Patapsco River. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone.

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 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 proposed 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 rulemaking 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 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 requires agencies to identify and consider a realistic alternative that the agency reasonably expects would reduce any “unfunded mandate” costs. This NPRM has not been designated a significant regulatory action. Accordingly, this NPRM has not been designated a significant regulatory action and has no impact on Federalism under Executive Order 13132.

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 lasting 7 enforcement hours that would prohibit entry within certain navigable waters of the Chesapeake Bay and Patapsco 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 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 protestors. 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—2021–0414 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 web page. 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 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; 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.T05–0414 to read as follows: