

(i) The expiration of the period within which a response to a show cause order must be filed if the respondent does not file a response as required by paragraph (d) of this section;

(ii) The conference described in paragraph (e) of this section if the Internal Revenue Service finds that the respondent is described in paragraph (b) of this section;

(iii) The respondent's failure to appear, either personally or through an authorized representative, at a conference scheduled by the Internal Revenue Service under paragraph (e) of this section.

(2) *Duration of suspension.* A suspension under this section will commence on the date that the written notice of expedited suspension is served on the practitioner, either personally or through an authorized representative. The suspension will remain effective until the earlier of:

(i) The date the Internal Revenue Service lifts the suspension after determining that the practitioner is no longer described in paragraph (b) of this section or for any other reason; or

(ii) The date the suspension is lifted by an Administrative Law Judge or the Secretary of the Treasury, or delegate deciding appeals, in a proceeding referred to in paragraph (g) of this section and instituted under § 10.60.

(g) *Practitioner request for § 10.60 proceeding.* If the Internal Revenue Service suspends a practitioner under the expedited suspension procedures described in this section, the practitioner may demand that the Internal Revenue Service institute a proceeding under § 10.60 and issue the complaint described in § 10.62. The request must be in writing, specifically reference the suspension action under § 10.82, and be made within 2 years from the date on which the practitioner's suspension commenced. The Internal Revenue Service must issue a complaint demanded under this paragraph (g) within 45 calendar days of receiving the demand.

(h) *Effective/applicability date.* This section is applicable beginning on the date that final regulations are published in the **Federal Register**.

**Par. 12.** Section 10.91 is revised to read as follows:

#### **§ 10.91 Saving provision.**

Any proceeding instituted under this part prior to the date that final regulations are published in the **Federal Register**, for which a final decision has not been reached or for which judicial review is still available is not affected by these revisions. Any proceeding under this part based on conduct

engaged in prior to the date that final regulations are published in the **Federal Register**, which is instituted after that date, will apply subpart D and E of this part as revised, but the conduct engaged in prior to the effective date of these revisions will be judged by the regulations in effect at the time the conduct occurred.

**Par. 13.** Section 10.93 is revised to read as follows:

#### **§ 10.93 Effective date.**

Except as otherwise provided in each section and subject to § 10.91, Part 10 is applicable on the date that final regulations are published in the **Federal Register**.

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 2012-22836 Filed 9-14-12; 8:45 am]

**BILLING CODE 4830-01-P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 165**

[Docket Number USCG-2012-0812]

RIN 1625-AA00

#### **Safety Zone, Atlantic Intracoastal Waterway; Emerald Isle, NC**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Coast Guard proposes to extend a temporary safety zone on the waters of the Atlantic Intracoastal Waterway at Emerald Isle, North Carolina. The safety zone is necessary to provide for the safety of mariners on navigable waters during maintenance of the NC 58 Fixed Bridge crossing the Atlantic Intracoastal Waterway, mile 226, at Emerald Isle, North Carolina. The safety zone extension would temporarily restrict vessel movement within the designated area starting on December 12, 2012 through February 14, 2013.

**DATES:** Comments and related material must be received by the Coast Guard on or before October 2, 2012.

**ADDRESSES:** You may submit comments identified by docket number using any one of the following methods:

(1) *Federal eRulemaking Portal:*

<http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail or Delivery:* Docket Management Facility (M-30), U.S. Department of Transportation, West

Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email CWO4 Joseph M. Edge, U.S. Coast Guard Sector North Carolina; telephone 252-247-4525, email [Joseph.M.Edge@uscg.mil](mailto:Joseph.M.Edge@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Table of Acronyms**

DHS Department of Homeland Security  
FR **Federal Register**  
NPRM Notice of Proposed Rulemaking

##### **A. Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

##### *1. Submitting Comments*

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. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number (USCG–2012–0812) in the “SEARCH” box and click “SEARCH.” Click on “Submit a Comment” on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

## 2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG–2012–0432) in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

## 3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

## 4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

## B. Regulatory History and Information

This proposed rule would extend an existing safety zone in the Atlantic Intracoastal Waterway at Emerald Isle. The Coast Guard published a notice of proposed rulemaking for the existing

safety zone on June 15, 2012 (USCG–2012–0432, 77 FR 35906), no comments were received and we published a final rule on July 30, 2012 (77 FR 44463).

## C. Basis and Purpose

North Carolina Department of Transportation has contracted Marine Contracting Corporation of Virginia Beach, Virginia to perform bridge maintenance on the NC 58 Fixed Bridge crossing the Atlantic Intracoastal Waterway, mile 226, at Emerald Isle, North Carolina. The contract provides for replacement of the fender system to commence on September 12, 2012 with a completion date of December 12, 2012. The contractor has been granted an extension by North Carolina Department of Transportation until February 14, 2013 to complete the bridge maintenance. The contractor will utilize a 140 foot deck barge with a 40 foot beam as a work platform and for equipment staging. The existing safety zone needs to be extended to provide a safety buffer for transiting vessels as bridge repairs present potential hazards to mariners and property due to reduction of horizontal clearance.

## D. Discussion of Proposed Rule

The proposed temporary safety zone will encompass the waters directly under the NC 58 Fixed Bridge crossing the Atlantic Intracoastal Waterway, mile 226, at Emerald Isle, North Carolina (34°40′28″ N, 077°03′56″ W). This initial zone is in effect from 8 a.m. September 12, 2012 through 8 p.m. December 12, 2012. The proposed extension will be in effect from 8 p.m. December 12, 2012 through 8 p.m. February 14, 2013. During this period the Coast Guard would require a one hour notification to the work supervisor at NC 58 Fixed Bridge, Atlantic Intracoastal Waterway crossing, mile 226, Emerald Isle, North Carolina. The notification requirement would apply during the maintenance period for vessels requiring a horizontal clearance of greater than 50 feet.

## E. 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 or executive orders.

### 1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of

potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This rule does restrict traffic from transiting a portion of the Atlantic Intracoastal Waterway; it imposes a one hour notification to ensure the waterway is clear of impediment to allow passage to vessels requiring a horizontal clearance of greater than 50 feet.

### 2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which may be small entities: The owners or operators of commercial tug and barge companies, recreational and commercial fishing vessels intending to transit the specified portion of Atlantic Intracoastal Waterway from 8 p.m. December 12, 2012 through 8 p.m. February 14, 2013.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. Although the safety zone will apply to this section of the Atlantic Intracoastal Waterway, vessel traffic will be able to request passage by providing a one hour advanced notification. Before the effective period, the Coast Guard will issue maritime advisories widely available to the users of the waterway. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this 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 rule would economically affect it.

### 3. Assistance for Small Entities

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 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**, above. 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.

#### 4. 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).

#### 5. Federalism

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 proposed rule under that Order and determined that this rule does not have implications for federalism.

#### 6. 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.

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

#### 8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children From Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### 11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination 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.

#### 12. Energy Effects

This proposed rule is not a “significant energy action” under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### 13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. Environment

We have analyzed this proposed 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 (NEPA) (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 the establishment of a temporary safety zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis

checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### 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 proposes 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:** 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T05–0812 to read as follows:

#### § 165.T05–0812 Safety Zone; Atlantic Intracoastal Waterway, Emerald Isle, NC.

(a) *Regulated Area.* The following area is a safety zone: This zone includes the waters directly under and 100 yards either side of the NC 58 Fixed Bridge crossing the Atlantic Intracoastal Waterway, mile 226, at Emerald Isle, North Carolina (latitude 34°40′28″ N, longitude 077°03′56″ W).

(b) *Regulations.* The general safety zone regulations found in 33 CFR 165.23 apply to the safety zone created by this temporary section, § 165.T05–0432. In addition the following regulations apply:

(1) All vessels requiring greater than 50 feet horizontal clearance to safely transit through the NC 58 Fixed Bridge crossing the Atlantic Intracoastal Waterway, mile 226, at Emerald Isle, North Carolina must contact the work supervisor on VHF–FM marine band radio channels 13 and 16 one hour in advance of intended transit.

(2) All Coast Guard assets enforcing this safety zone can be contacted on VHF–FM marine band radio channels 13 and 16.

(3) The operator of any vessel within or in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign, and

(ii) Proceed as directed by any commissioned, warrant or petty officer

on board a vessel displaying a Coast Guard Ensign.

(c) *Definitions.*

(1) Captain of the Port North Carolina means the Commander, Coast Guard Sector North Carolina or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(2) Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port North Carolina to assist in enforcing the safety zone described in paragraph (a) of this section.

(3) Work Supervisor means the contractors on site representative.

(d) *Enforcement.* The U.S. Coast Guard may be assisted by Federal, State and local agencies in the patrol and enforcement of the zone.

(e) *Enforcement period.* This section will be enforced from through 8 p.m. December 12, 2012 through 8 p.m. February 14, 2013 unless cancelled earlier by the Captain of the Port.

Dated: August 30, 2012.

**A. Popiel,**

*Captain, U.S. Coast Guard, Captain of the Port, U.S. Coast Guard Sector North Carolina.*

[FR Doc. 2012-22798 Filed 9-14-12; 8:45 am]

**BILLING CODE 9110-04-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 67**

[Docket ID FEMA-2010-0003; Internal Agency Docket No. FEMA-B-1095]

**Proposed Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Proposed rule; correction.

**SUMMARY:** On May 21, 2010, FEMA published in the **Federal Register** a proposed rule that contained an erroneous table. This notice provides corrections to that table, to be used in lieu of the information published at 75 FR 28511. The table provided here represents the flooding sources, location of referenced elevations, effective and modified elevations, and communities affected for Muhlenberg County, Kentucky and Incorporated Areas. Specifically, it addresses the following flooding sources: Brier Creek (backwater effects from Green River), Caney Creek, Caney Creek Tributary 27.1 (backwater effects from Caney Creek), Caney Creek

Tributary 31 (backwater effects from Caney Creek), Canfield Branch (backwater effects from Green River), Cypress Creek (backwater effects from Green River), Cypress Creek Tributary 1 (backwater effects from Green River), Green River, Irwin Creek (backwater effects from Green River), Isaacs Creek (backwater effects from Green River), Jacobs Creek (backwater effects from Green River), Jacobs Creek Tributary 7 (backwater effects from Green River), Little Cypress Creek, Little Cypress Creek Tributary 16 (backwater effects from Little Cypress Creek), Little Cypress Creek Tributary 8 (backwater effects from Little Cypress Creek), Log Creek (backwater effects from Green River), Mud River (backwater effects from Green River), Muddy Fork (backwater effects from Green River), Nelson Creek (backwater effects from Green River), Opossum Run (backwater effects from Sandlick Creek), Plum Creek (backwater effects from Green River), Plum Creek Tributary 5 (backwater effects from Green River), Pond Creek (backwater effects from Green River), Pond Creek (backwater effects from Sandlick Creek), Pond Creek Tributary 29 (backwater effects from Green River), Pond Creek Tributary 30 (backwater effects from Green River), Pond River (backwater effects from Green River) and Sandlick Creek Tributary 2 (backwater effects from Sandlick Creek).

**DATES:** Comments are to be submitted on or before December 17, 2012.

**ADDRESSES:** You may submit comments, identified by Docket No. FEMA-B-1095, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-4064 or (email) [Luis.Rodriguez3@fema.dhs.gov](mailto:Luis.Rodriguez3@fema.dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-4064 or (email) [Luis.Rodriguez3@fema.dhs.gov](mailto:Luis.Rodriguez3@fema.dhs.gov).

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) publishes proposed determinations of Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs for communities participating in the National Flood Insurance Program (NFIP), in accordance with section 110 of the

Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are minimum requirements. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

**Corrections**

In the proposed rule published at 75 FR 28511, in the May 21, 2010, issue of the **Federal Register**, FEMA published a table under the authority of 44 CFR 67.4. The table, entitled "Muhlenberg County, Kentucky, and Incorporated Areas" addressed the following flooding sources: Brier Creek (backwater effects from Green River), Caney Creek, Caney Creek Tributary 27.1 (backwater effects from Caney Creek), Caney Creek Tributary 31 (backwater effects from Caney Creek), Canfield Branch (backwater effects from Green River), Cypress Creek (backwater effects from Green River), Cypress Creek Tributary 1 (backwater effects from Green River), Green River, Irwin Creek (backwater effects from Green River), Isaacs Creek (backwater effects from Green River), Jacobs Creek (backwater effects from Green River), Jacobs Creek Tributary 7 (backwater effects from Green River), Little Cypress Creek, Little Cypress Creek Tributary 16 (backwater effects from Little Cypress Creek), Little Cypress Creek Tributary 8 (backwater effects from Little Cypress Creek), Log Creek (backwater effects from Green River), Mud River (backwater effects from Green River), Muddy Fork (backwater effects from Green River), Nelson Creek (backwater effects from Green River), Opossum Run (backwater effects from Sandlick Creek), Plum Creek (backwater effects from Green River), Plum Creek Tributary 5 (backwater effects from Green River), Pond Creek (backwater effects from Green River), Pond Creek (backwater effects from Sandlick Creek), Pond Creek Tributary 29 (backwater effects from Green River), Pond Creek Tributary 30 (backwater effects from Green River),