

Cruse (202-622-4693) of the Office of Procedure and Administration (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

#### Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 337(d) and section 1502. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

#### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations will primarily affect affiliated groups of corporations, which tend to be larger businesses. Therefore a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and the Treasury Department request comments on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested by any person who timely submits comments. If a public hearing is scheduled, notice of the date, time and place for the hearing will be published in the **Federal Register**.

#### Drafting Information

The principal author of the regulations under section 337(d) is Mark Weiss, Office of Associate Chief Counsel (Corporate). The principal author of the regulations under section 1502 is Lola L. Johnson, Office of Associate Chief Counsel (Corporate). However, other

personnel from the IRS and Treasury participated in their development.

#### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

#### PART 1—INCOME TAXES

**Paragraph 1.** The authority citation for part 1 continues to read as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

**Par. 2.** Section 1.337(d)–2(c)(2) is added to read as follows:

#### § 1.337(d)–2 Loss limitation window period.

[The text of this proposed section is the same as the text of § 1.337(d)–2T published elsewhere in this issue of the **Federal Register**].

**Par. 3.** Section 1.1502–35(f)(1) is added to read as follows:

#### § 1.1502–35 Transfers of subsidiary member stock and deconsolidations of subsidiary members.

[The text of this proposed section is the same as the text of § 1.1502–35T published elsewhere in this issue of the **Federal Register**].

**Par. 4.** In § 1.1502–80, paragraph (c) is revised to read as follows:

#### § 1.1502–80 Applicability of other provisions of law.

(c) [The text of this proposed § 1.1502–80(c) is the same as the text of § 1.1502–80T(c) published elsewhere in this issue of the **Federal Register**].

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 04–6141 Filed 3–17–04; 8:45 am]

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[CGD05–03–167]

RIN 1625–AAOO

#### Safety Zone: Atlantic Intracoastal Waterway, Vicinity of Marine Corps Base Camp Lejeune, NC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to amend safety zone regulations for the Atlantic Intracoastal Waterway (AICW) and connecting waters, in the vicinity of

Marine Corps Base Camp Lejeune, North Carolina. The proposed amendment would provide for additional closures of the AICW of up to 4 hours for Naval weapons training and revise phone numbers for Marine Safety Office Wilmington listed in the regulation. The 4-hour closure periods are necessary to ensure the safety of vessels in this area while facilitating military training and the ammunition certification processes.

**DATES:** Comments and related material must reach the Coast Guard on or before June 16, 2004.

**ADDRESSES:** You may mail comments and related material to Commanding Officer, Coast Guard Marine Safety Office, 721 Medical Center Drive Suite 100, Wilmington, NC, 28401. The Port Operations department of Marine Safety Office Wilmington maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at U.S. Coast Guard Marine Safety Office, 721 Medical Center Drive, Suite 100, Wilmington, NC 28401 between 9 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LCDR Charles A. Roskam II, Chief, Port Operations, USCG Marine Safety Office Wilmington, telephone number (910) 772–2207.

#### SUPPLEMENTARY INFORMATION:

#### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking CGD05–03–167, indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of received comments.

#### Public Meeting

We do not plan to hold a public meeting. But you may submit a request for a meeting by writing to Commanding Officer, Coast Guard Marine Safety Office, 721 Medical Center Drive Suite 100, Wilmington, NC 28401, at the

address under **ADDRESSES** explaining why one would be beneficial. If we determine that a public meeting would aid this rulemaking, we will hold it at a time and place announced in a separate notice in the **Federal Register**.

### Background and Purpose

The Coast Guard proposes an amendment to the safety zone in the Atlantic Intracoastal Waterway and connecting waters in the vicinity of Marine Corps Base Camp Lejeune, North Carolina. The existing regulations do not account for live firing of weapons from Naval vessels located offshore on the Atlantic Ocean. Projectiles from these live fire operations sometimes travel across the AICW to the impact area on Camp Lejeune.

Current Naval weapons training and ammunition certification requirements necessitate extended periods of live fire. AICW closure periods longer than those currently specified in the existing regulations are necessary to ensure the safety of vessels in this area and facilitate military training and ammunition certification processes.

### Discussion of Proposed Rule

This proposed rule includes a revision allowing for closure of the AICW for periods of up to 4 hours for Naval gunnery live fire exercises. This proposed rule will also revise the contact number for the COTP at the Marine Safety Office Wilmington.

This proposed rule addresses operational conditions that were not considered when the existing regulation was promulgated in 1998 (63 FR 58636, Nov. 2, 1998). Naval gunnery live fire operations are conducted crossing the AICW from offshore on the Atlantic Ocean in the vicinity of the N-1/BT3 impact area and impacting areas in Camp Lejeune. Live fire periods of up to 4 hours are necessary to complete weapons training and ammunition certification processes. The extended closure periods will occur approximately twice a month, but no more than 30 times per year, and only during daylight hours.

This proposed rule, differentiating between Marine Artillery and Naval gunnery live fire exercises, retains the current 1-hour transit schedule during Marine Corps artillery live fire while permitting closure of the AICW for periods of up to 4 hours during Naval gunnery live fire exercises. During Naval gunnery live fire exercises; the waterway will be opened for a minimum of 1 hour following each 4-hour closure to allow for the transit of vessels. The COTP Wilmington will announce specific closure times by

Broadcast Notice to Mariners and Local Notice to Mariners. In addition, due to recent change of location of Marine Safety Office Wilmington, COTP contact numbers have been changed to 1-(877) 229-0770 or (910) 772-2200; the regulation will be amended to reflect these changes. All other provisions of the existing regulation shall remain unchanged.

### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This rule only affects a small portion, less than two miles, of the AICW in North Carolina. The proposed regulations have been tailored in scope to impose the least impact on maritime interests, yet provide the level of safety necessary for such an event.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. 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 a substantial number of small entities. The Coast Guard expects a minimal economic impact on a substantial number of small entities due to this rule because little commercial traffic transits this area of the AICW. Also, on average, a very small amount of recreational traffic travels this portion of the AICW.

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 to Commanding Officer, Coast Guard

Marine Safety Office, 721 Medical Center Drive Suite 100, Wilmington, NC 28401, explaining why you think it qualifies and how and to what degree this rule would economically affect it.

### 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 so that they can better evaluate its effects on them and participate in the rulemaking. 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 U.S. Coast Guard Marine Safety Office Wilmington, LCDR Chuck Roskam, Chief, Port Operations, listed under **FOR FURTHER INFORMATION CONTACT**.

### Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

### 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 or more in any one year. Though this proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

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

### 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.

### Protection of Children

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.

### 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.

### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order 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.

### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are available in the docket where indicated under **ADDRESSES**.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

### Regulation

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. 1226, 1231; 46 U.S.C. 701, 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5. Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. In § 165.514 amend paragraph (b) by adding the paragraph heading "*Regulations.*" immediately before the word "Notwithstanding"; amend paragraph (c) by adding the paragraph heading "*General information.*" immediately before "(1) The COTP Wilmington"; amend paragraph (c)(1) by adding the paragraph heading "*Announcements.*" immediately before the words "The COTP Wilmington", revise paragraphs (c)(2) and (d), and add paragraph (c)(3) to read as follows:

#### § 165.514 Safety Zone: Atlantic Intracoastal Waterway, vicinity of Marine Corps Base Camp Lejeune, North Carolina.

\* \* \* \* \*

(b) *Regulations.* \* \* \*

(c) *General information.* (1) *Announcements.* \* \* \*

(2) *Camp Lejeune artillery operations.* Artillery weapons firing over the AICW from Marine Corps Base Camp Lejeune will be suspended and vessels permitted to transit the specified 2-nautical-mile firing area for a 1-hour period beginning at the start of each odd-numbered hour local time (e.g., 9 a.m., 1 p.m.) A vessel may not enter the specified firing area unless it will be able to complete its transit of the firing area before firing exercises are scheduled to re-start.

(3) *Atlantic Ocean Naval Gunnery live fire operations.* Naval gunnery live fire operations over the AICW from off shore on the Atlantic Ocean may be conducted for periods not to exceed 4 hours, then suspended and vessels permitted to transit the specified two-mile firing area for a minimum of one hour before firing may resume. A vessel may not enter the specified firing area unless it will be able to complete its transit of the firing area before firing exercises are scheduled to re-start.

(d) *Contact information.* U.S. Navy safety vessels may be contacted on VHF

marine band radio channels 13 (156.65 MHz) and 16 (156.8 MHz). The Captain of the Port may be contacted at the Marine Safety Office Wilmington, NC by telephone at 1–(877) 229–0770 or (910) 770–2200.

Dated: March 3, 2004.

**Jane M. Hartley,**

*Captain, U.S. Coast Guard, Captain of the Port, Wilmington, NC.*

[FR Doc. 04–6036 Filed 3–17–04; 8:45 am]

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### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Parts 36, 51, 52, 53, 54, 63, 64 and 69

[WC Docket No. 02–313; FCC 03–337]

#### Biennial Regulatory Review of Regulations Administered

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission seeks comment on whether certain rules should be repealed or modified because they are no longer necessary in the public interest. We intend to consider the comments received pursuant to this *Notice of Proposed Rulemaking* and issue one or more orders to repeal or modify the applicable rules, as appropriate.

**DATES:** Comments are due on or before April 19, 2004. Reply comments are due on or before May 3, 2004. Written comments on the proposed information collection(s) must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before April 19, 2004.

**ADDRESSES:** All filings must be sent to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any Paperwork Reduction Act (PRA) comments on the information collection(s) contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [Judith-B.Herman@fcc.gov](mailto:Judith-B.Herman@fcc.gov), and to Kim A. Johnson, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503, or via the Internet to [Kim.A.Johnson@omb.eop.gov](mailto:Kim.A.Johnson@omb.eop.gov) or by fax to (202) 395–5167. Parties should also send three paper copies of their filings to