

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 54**

[REG–110878–24]

RIN 1545–BR35

DEPARTMENT OF LABOR**Employee Benefits Security Administration****29 CFR Part 2590**

RIN 1210–AC25

DEPARTMENT OF HEALTH AND HUMAN SERVICES**45 CFR Part 147**

[CMS–9887–WN]

RIN 0938–AV57

Enhancing Coverage of Preventive Services Under the Affordable Care Act

AGENCY: Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws a notice of proposed rulemaking that appeared in the **Federal Register** on October 28, 2024, regarding coverage of certain preventive services under the Affordable Care Act.

DATES: As of January 15, 2025, the notice of proposed rulemaking that appeared in the **Federal Register** on October 28, 2024, at 89 FR 85750 is withdrawn.

ADDRESSES: Comments received on the proposed rule can be viewed at https://www.regulations.gov/docket/HHS_FRDOC_0001/document.

FOR FURTHER INFORMATION CONTACT:

Regan Rusher, Internal Revenue Service, Department of the Treasury, at (202) 317–5500. Matthew Meidell, Employee Benefits Security Administration, Department of Labor, at (202) 693–8335. Rebecca Miller, Employee Benefits Security Administration, Department of Labor, at (202) 693–8335. Geraldine Doetzer, Centers for Medicare & Medicaid Services, Department of Health and Human Services at (667) 290–8855.

SUPPLEMENTARY INFORMATION: Section 2713 of the Public Health Service Act

(PHS Act), as added by the Affordable Care Act and incorporated into the Employee Retirement Income Security Act and the Internal Revenue Code, requires non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual health insurance coverage to provide coverage of certain recommended preventive services without imposing any cost-sharing requirements. Section 2715A of the PHS Act provides that non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual health insurance coverage must comply with section 1311(e)(3) of the Affordable Care Act, which addresses transparency in health coverage and imposes certain reporting and disclosure requirements for health plans that are seeking certification as qualified health plans to be offered on an American Health Benefits Exchange (generally referred to as an Exchange).

On October 28, 2024, the Departments of the Treasury, Labor, and Health and Human Services (collectively, the Departments) issued proposed rules under PHS Act sections 2713 and 2715A titled, “Enhancing Coverage of Preventive Services Under the Affordable Care Act.”¹ The proposed rules sought to address ongoing complaints and reports of noncompliance with section 2713 of the PHS Act and its implementing regulations. These complaints and reports indicate that participants, beneficiaries, and enrollees face barriers when attempting to use their coverage to access recommended preventive services without cost sharing. As a result of these concerns, the Departments proposed to amend the regulations governing coverage of recommended preventive services to ensure that participants, beneficiaries, and enrollees would be able to access the full range of recommended preventive services to which they are entitled, with particular focus on strengthening coverage requirements with respect to recommended contraceptive items for women.

The proposed rules would have required plans and issuers that utilize reasonable medical management techniques with respect to any recommended preventive services to provide an easily accessible, transparent, and sufficiently expedient exceptions process that allows an individual to receive coverage without cost sharing for the preventive service according to the frequency, method, treatment, or setting that is medically

necessary for them, as determined by the individual’s attending provider. The proposed rules would also have required plans and issuers to cover certain recommended over-the-counter contraceptive items without requiring a prescription and without imposing cost-sharing requirements. In addition, the proposed rules would have required plans and issuers to cover certain recommended contraceptive items that are drugs and drug-led combination products without imposing cost-sharing requirements, unless a therapeutic equivalent of the drug or drug-led combination product is covered without cost sharing. Finally, the proposed rules would have required plans and issuers to provide a disclosure pertaining to coverage and cost-sharing requirements for recommended over-the-counter contraceptive items in plans’ and issuers’ Transparency in Coverage internet-based self-service tools or, if requested by the individual, on paper.

The Departments requested comments on all aspects of the proposed rules, as well as on a number of specific issues. The comment period on the proposed rules closed on December 27, 2024, and the Departments received 268 comments to review. The comments addressed a range of issues, including operational and cost issues related to the Departments’ contraceptive coverage proposals.

The Departments have determined it is appropriate to withdraw the proposed rules at this time, focusing instead on other matters. For example, the Departments have identified Cost Sharing Under the Affordable Care Act (RIN 0938–AV59); Requirements Related to Advanced Explanation of Benefits and Other Provisions Under the Consolidated Appropriations Act, 2021 (RIN 0938–AU98); Independent Dispute Resolution Operations (RIN 0938–AV15); Requirements Related to Air Ambulance Services, Agent and Broker Disclosures, and Provider Enforcement (RIN 0938–AU61); and Provider Nondiscrimination Requirements for Group Health Plans and Health Insurance Issuers in the Group and Individual Markets (RIN 0938–AU64) in their respective Fall 2024 Regulatory Agendas, as potential matters on which to focus. Moreover, should the Departments decide in the future that it is a priority to move forward with rulemaking regarding all or a subset of the preventive services coverage requirements of PHS Act section 2713, the Departments want to ensure that they will have the benefit of the most up-to-date facts and information on the basis of any specific proposals that they determine to put forward at such time.

¹ 89 FR 85750 (Oct. 28, 2024).

For these independently sufficient reasons, the Departments are withdrawing the proposed rules, and may propose new rules in the future, as appropriate to meet these goals.

This withdrawal action does not limit the Departments' ability to make new regulatory proposals in the areas addressed by the withdrawn proposed rules, including new proposals that may be substantially identical or similar to those described therein. In addition, this withdrawal action does not affect the Departments' ongoing application of existing statutory and regulatory requirements or their responsibility to faithfully administer the statutory requirements the proposed rules would have implemented if finalized.

Douglas W. O'Donnell,

Deputy Commissioner, Internal Revenue Service.

Lisa M. Gomez,

Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

Xavier Becerra,

Secretary, Department of Health and Human Services.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2024-1093]

RIN 1625-AA00

Safety Zone; Cable Laying Corridor, Atlantic Ocean, Virginia Beach, Virginia

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary moving safety zone to surround nearshore operations conducted by a cable laying barge. Cable lay and burial operations will create navigational hazards moving along a corridor from shore extending seaward 12 NM. This action is necessary to provide for the safety of life on these navigable waters near Virginia Beach, Virginia. This proposed rulemaking would prohibit persons and vessels from entering the safety zone unless authorized by the Captain of the Port Sector Virginia 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 January 29, 2025. A shorter comment period is necessary for this rule to provide ample time to review and address comments on the proposed rule prior to the day the rule is needed to take effect to protect the public from the hazards it addresses.

ADDRESSES: You may submit comments identified by docket number USCG-2024-1093 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. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LCDR Justin Strassfield, Sector Virginia, Waterways Management Division, U.S. Coast Guard, Telephone: (757) 668-5581; or virginiawaterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CLB	Cable Laying Barge
CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
NM	Nautical Miles
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

On December 3, 2024, Dominion Energy notified the Coast Guard with a request for a moving safety zone to encompass the operations conducted by the CLB ULISSE, to extend 1000-yards from the center of the barge. The Sector Virginia COTP has determined that potential hazards associated with the anchorage arrangements necessary for the cable laying barge to conduct operations would be a safety concern for anyone within a 1000-yard radius of the barge.

The purpose of this proposed rulemaking is to ensure the safety of vessels and the navigable waters within a 1000-yard radius of the CLB during its operations. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034.

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone on January 25, 2025, for 365 days. The safety zone would cover all navigable waters within 1000 yards of the CBL ULISSE, only while it conducts

cable handling and burial in the Atlantic Ocean beginning roughly 300 yards from the shore of the State Military Reservation in Virginia Beach, Virginia out to 12 NM, the U.S. Territorial Seas border. The duration of the zone is intended to ensure the safety of vessels and these navigable waters during the 365-day period. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. Due to the stability required for the cable laying and burial process, the multipoint anchorage configurations used are highly dynamic and create large unseen hazards to navigation requiring someone familiar with the current anchoring positions to determine if safe transit corridors exist or if a transiting vessel must avoid the full 1000 yards radius of the zone to mitigate the hazards present. A designated representative, in communication with the anchor handling vessels, can communicate these hazards and possible safe transit corridors, decreasing the burden on the non-project vessels seeking access through or around the zone. 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 section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration of the safety zone. Vessel traffic would be able to safely transit around this safety zone to the east initially without losing sight of land and the impact the nearshore recreational boaters near Rudee Inlet in Virginia Beach, Virginia would be reduced further as the CLB moves further from shore, providing safe transit options to the west along the shoreline.