

satisfy the terms of its marketing and business plan and indicate what supervisory actions the region or ONES intends to take.

\* \* \* \* \*

#### *V.G—Other Persons With a Relationship to the Community*

A number of persons who have a close relationship to the community may be included, at the charter applicant's option, in the field of membership. These include the following:

- Employees of this credit union;
- Volunteers in the community;
- Members of the immediate family or household, including those of a member or person eligible for membership who died no longer than 6 months prior to the date of the application for credit union membership; and
- Organizations of such persons

Immediate family is defined as spouse, child, sibling, parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

Household is defined as persons living in the same residence maintaining a single economic unit. Membership eligibility is extended only to individuals who are members of an "immediate family or household" of a credit union member. It is not necessary for the primary member to join the credit union in order for the immediate family or household member of the primary member to join, provided the immediate family or household clause is included in the field of membership. However, it is necessary for the immediate family member or household member to first join in order for that person's immediate family member or household member to join the credit union. A credit union can adopt a more restrictive definition of immediate family or household.

Under the Federal Credit Union Act, once a person becomes a member of the credit union, such person may remain a member of the credit union until the person chooses to withdraw or is expelled from the membership of the credit union. This is commonly referred to as "once a member, always a member." The "once a member, always a member" provision does not prevent a credit union from restricting services to members who are no longer within the field of membership.

#### **Chapter 3—Low-Income Credit Unions and Credit Unions Serving Underserved Areas**

\* \* \* \* \*

#### **III—Service to Underserved Communities**

##### *III.B.1—Local Community*

\* \* \* For areas qualifying as a rural district under this section III, the boundaries are not limited to the outer boundaries of the states that are *immediately contiguous* to the state in which the credit union maintains its headquarters.

##### *III.B.2—Investment Area*

To be approved as an "underserved area," the proposed area must meet the CDFI definition of an "investment area," as developed pursuant to The Community Development Banking and Financial

Institutions Act of 1994, as amended from time to time.

##### **III.B.2.a—Proposed Area's "Significant Unmet Needs"**

A proposed area that is "distressed" also must display "significant unmet needs" for loans or for one or more of the financial services credit unions are authorized to offer. To meet this criterion, the credit union must include within its Business Plan a narrative description, entitled "Significant Unmet Needs for Credit Union Services" ("SUN statement"), that identifies the credit and depository needs of the community and details how the credit union plans to serve those needs. The credit union may choose which among the following "credit and depository needs" to address in the SUN statement: loans, share draft accounts, savings accounts, check cashing, money orders, certified checks, automated teller machines, deposit taking, safe deposit box services, and similar services.

\* \* \* \* \*

#### **Chapter 4—Charter Conversions**

\* \* \* \* \*

##### **II—Conversion of a State Credit Union to a Federal Credit Union**

\* \* \* \* \*

##### *II.B—Submission of Conversion Proposal to NCUA*

The following documents must be submitted with the conversion proposal:

- Conversion of State Charter to Federal Charter (NCUA 4000);
- Organization Certificate (NCUA 4008). Only Part (3) and the signature/notary section should be completed and, where applicable, signed by the credit union officials.
- Report of Officials and Agreement to Serve (NCUA 4012);
- The Application to Convert from State Credit Union to Federal Credit Union (NCUA 4401);
- The Application and Agreements for Insurance of Accounts (NCUA 9500);
- Certification of Resolution (NCUA 9501);
- Written evidence regarding whether the state regulator is in agreement with the conversion proposal; and
- Business plan, including the most current financial report and delinquent loan schedule. A state-chartered community credit union converting to a federal charter is not required to submit a business plan or a marketing plan if the credit union will serve the same community or a portion thereof that it served as a state charter. However, if the state credit union is a community credit union consisting of all or part of a CSA or a CBSA, the state credit union must submit written evidence of its compliance with the requirements of Chapter 2, Section V.A.8. Further, if the state credit union proposes to amend its field of membership, the Office of Credit Union Resources and Expansion Director may, after taking into account the significance of the proposed amendment, require the applicant to submit a business plan addressing specific issues (see Chapter 2, Section II.C.2).

If the state charter is applying to become a federal community charter, it must also

comply with the documentation requirements included in Chapter 2, Section V.A.2 of this Manual.

\* \* \* \* \*

#### **APPENDIX 1 GLOSSARY**

\* \* \* \* \*

*Affinity*—A relationship upon which a community charter is based. Acceptable affinities include living, working, worshiping, attending school, or being a paid employee of a legal entity headquartered in a well-defined local community, neighborhood, or rural district.

\* \* \* \* \*

[FR Doc. 2023–03684 Filed 2–27–23; 8:45 am]

**BILLING CODE 7535–01–P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

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

[USCG–2023–0112]

RIN 1625–AA00

#### **Safety Zone; Back River, Hampton, VA; Air Show**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish a safety zone for certain waters in the vicinity of the northwest branch of the Back River. This action is necessary to provide for the safety of life on these navigable waters near Langley Air Force Base, Hampton, VA, during an annual airshow. This proposed rulemaking would prohibit persons and vessels from entry in the safety zone unless authorized by the Captain of the Port 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 March 30, 2023.

**ADDRESSES:** You may submit comments identified by docket number USCG–2023–0112 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 LCDR Ashley Holm, Chief Waterways Management Division U.S. Coast Guard; 757–617–7986, [Ashley.E.Holm@uscg.mil](mailto:Ashley.E.Holm@uscg.mil).

**SUPPLEMENTARY INFORMATION:****I. Table of Abbreviations**

CFR Code of Federal Regulations  
 DHS Department of Homeland Security  
 FR Federal Register  
 NPRM Notice of proposed rulemaking  
 § Section  
 U.S.C. United States Code

**II. Background, Purpose, and Legal Basis**

On January 26, 2023, the Joint Base Langley-Eustis Fire Dispatch notified the Coast Guard that the 2023 Air Power Over Hampton Roads Air Show will be occurring Friday, May 5, 2023, to Sunday, May 7, 2023, from 10:00 a.m. to 4 p.m. each day and annually on the third or fourth Friday through Sunday in April or the first or second Friday through Sunday in May thereafter. The air show includes an aerial performance area over a portion of the Back River, where high powered jet aircrafts will perform aerobatic maneuvers. The Captain of the Port Virginia (COTP) has determined that due to the hazards associated with the air show, a safety zone is needed to ensure the safety of vessels on the navigable water. 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 annually on the third or fourth Friday through Sunday in April or the first or second Friday through Sunday in May from 10:00 a.m. to 4 p.m. daily to protect the public from potential hazards associated with an air show which is expected to occur annually. The safety zone would cover all navigable waters from the shoreline of the Back River contained within the following points: 37°05'34.32" N, 076°20'47.13" W; 37°5'38.05" N, 076°20'36.49" W; 37°5'30.53" N, 076°20'31.86" W. The duration of the safety zone is intended to ensure the safety of vessels on these navigable waters. 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, location, duration, and time-of-day of the safety zone. Vessel traffic would be able to safely transit around this safety zone which would impact a small designated area of the Back River. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter 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 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 IV.A above, 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 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 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 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 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. 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 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 potential effects of this proposed rule elsewhere in this preamble.

**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 6 hours, each day of the event, that would prohibit entry within a small portion of the Back 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 the **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 protesters. 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–2023–0112 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. Also, if you click on the Dockets tab and then the proposed rule, you should see a “Subscribe” option for email alerts. The option will notify you when comments are posted, or a final rule is published.

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 to the docket 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 stated 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:** 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

- 2. Add § 165.517 to read as follows:

##### § 165.517 Safety Zone; Back River, Hampton, VA; Air Show

(a) *Location.* The following area is a safety zone: all navigable waters from the shoreline of the Back River contained within the following points: 37°5′34.32″ N, 076°20′47.13″ W; 37°5′38.05″ N, 076°20′36.49″ W; 37°5′30.53″ N, 076°20′31.86″ W.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Virginia (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP’s designated representative.

(2) To seek permission to enter, contact the COTP or the COTP’s representative by VHF–FM Channel 16. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP’s designated representative.

(d) *Enforcement period.* This section will be enforced annually on the third or fourth Friday through Sunday in April or the first or second Friday through Sunday in May from 10 a.m. to 4 p.m. each day during the event.

Dated: February 10, 2023.

J.A. Stockwell,

Captain, U.S. Coast Guard, Captain of the Port Virginia.

[FR Doc. 2023–03999 Filed 2–27–23; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Part 412

[CMS–1788–P]

RIN 0938–AV17

#### Medicare Program; Medicare Disproportionate Share Hospital (DSH) Payments: Counting Certain Days Associated With Section 1115 Demonstrations in the Medicaid Fraction

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would revise our regulations on the counting of days associated with individuals eligible for certain benefits provided by section 1115 demonstrations in the Medicaid fraction of a hospital’s disproportionate patient percentage.

**DATES:** To be assured consideration, comments must be received at one of the addresses provided below by May 1, 2023.

**ADDRESSES:** In commenting, please refer to file code CMS–1788–P.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation