

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2018–0065]

RIN 1625–AA00

#### Safety Zones; Coast Guard Sector Ohio Valley Annual and Recurring Safety Zones Update

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is amending and updating its safety zones regulations for annual events that take place in the Coast Guard Sector Ohio Valley area. This action is necessary to update the current list of recurring safety zones with revisions, additional events, and removal of events that no longer take place in Sector Ohio Valley. This regulation restricts vessel traffic from the safety zones during the events unless authorized by the Captain of the Port Sector Ohio Valley or a designated representative.

**DATES:** This rule is effective May 11, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2018–0065 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Petty Officer Joshua Herriott, Sector Ohio Valley, U.S. Coast Guard; telephone (502) 779–5343, email [Joshua.R.Herriott@uscg.mil](mailto:Joshua.R.Herriott@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
COTP Captain of the Port Sector Ohio Valley  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

##### II. Background Information and Regulatory History

The Captain of the Port Sector Ohio Valley (COTP) is amending 33 CFR 165.801 to update the table of annual fireworks displays and other marine-related events in Coast Guard Sector Ohio Valley. These events include air shows, fireworks displays, and other marine related events requiring a

limited access area restricting vessel traffic for safety purposes.

On April 3, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zones; Coast Guard Sector Ohio Valley Annual and Recurring Safety Zones Update (83 FR 14226). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to those recurring safety zones. During the comment period that ended on April 18, 2018, we received eight comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is necessary to respond to the potential safety hazards associated with these marine events.

##### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. Based on the nature of these marine events, large numbers of participants and spectators, and event locations, the COTP has determined that the events listed in this rule could pose a risk to participants or waterways users if the normal vessel traffic were to interfere with the events. Possible hazards include risks of injury or death from near or actual contact among participant vessels and spectators or mariners traversing through the regulated area. This purpose of this rule is to ensure the safety of all waterway users, including event participants and spectators, during the scheduled events.

##### IV. Discussion of Comments, Changes, and the Rule

As noted above, we received eight comments on our NPRM published on April 3, 2018. Of the eight comments we received, one was unrelated to this rulemaking and another was a duplicate. Of the six substantive comments, one commenter was in favor of the rule, two were against the rule, and the other three expressed confusion as to the times, locations, effects, alternative routes, and the purpose of the safety zones.

Of the two commenters not in favor of this rule, one stated disagreement with regulatory action generally and one stated that local authorities should oversee inland waterways. These comments are outside of the scope of this final rule.

Two commenters expressed confusion over the events’ times and locations. This rule contains two tables. The first

table adds 23 new safety zones. The second table amends 31 existing safety zones. Each table contains dates and locations for each event. The Coast Guard will issue a notice of enforcement for each event, which will contain specific times of enforcement of each safety zone. In addition, the Captain of the Port or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the particular safety zone as well as any changes in the planned schedule. Another commenter expressed confusion over the safety zones’ effects and alternative routes. The effects on environment, Indian tribes, and small entities are discussed in the preamble of the rule. In addition, the Coast Guard sought public input as to the same as well as the effects on the protest activities. As to the alternative routes, the rule, § 165.801(d), allows persons and vessels desiring to enter into or passage through the zone to request permission to do so from the Captain of the Port or a designated representative. Finally, one other commenter expressed confusion as to the purpose of the rule and suggested that we include that it is to ensure the safety of event locations and event participants. The Coast Guard is vested with jurisdiction over the navigable waters of the United States and any land structures or shore areas immediately adjacent to such waters. It does not have the authority over land areas not immediately adjacent to the navigable waters on which the events will occur. As such, we cannot make the requested change. As to the protection of the event participants, the rule does state that the safety zones are necessary for the protection of the event participants. However, the sentence stating the purpose of the rule inadvertently omitted that its purpose is to also ensure the safety of the event participants. We have amended the sentence to reflect the purpose.

There are no changes in the regulatory text of this rule from the proposed rule on the NPRM.

##### V. Regulatory Analyses

We developed this 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. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated as a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, and duration of the safety zones. These safety zones are limited in size and duration, and are usually positioned away from high vessel traffic areas. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zones, and the rule would allow vessels to seek permission to enter the zones.

#### 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 received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will 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 rule will not have a significant economic impact on any vessel owner or operator. 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 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** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to

the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This rule will 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 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 rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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 rule has implications for federalism or Indian tribes, please contact 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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. 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. 01. A Record of Environmental Consideration is available in the docket where indicated under **ADDRESSES**.

#### G. 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.

#### 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 amends 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; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

- 2. In § 165.801, revise Table 1 to read as follows:

#### § 165.801 Annual fireworks displays and other events in the Eighth Coast Guard District recurring safety zones.

\* \* \* \* \*

TABLE 1 OF § 165.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING SAFETY ZONES

| Date  | Sponsor/name   | Sector Ohio Valley location | Safety zone   |
|---|--|-----------------------------|---|
| 1. Multiple days—April through November.                        | Pittsburgh Pirates/Pittsburgh Pirates Fireworks.   | Pittsburgh, PA .....        | Allegheny River, Mile 0.2–0.9 (Pennsylvania).   |
| 2. Multiple days—April through November.                        | Cincinnati Reds/Cincinnati Reds Season Fireworks.  | Cincinnati, OH .....        | Ohio River, Mile 470.1–470.4; extending 500 ft. from the State of Ohio shoreline (Ohio).    |
| 3. 2 days—Third Friday and Saturday in April.                   | Thunder Over Louisville/Thunder Over Louisville.   | Louisville, KY .....        | Ohio River, Mile 601.0–607.0 (Kentucky).  |
| 4. Last Sunday in May .....                                     | Friends of Ironton .....   | Ironton, OH .....           | Ohio River, Mile 326.7–327.7 (Ohio).  |
| 5. 1 day—A Saturday in July .....                               | Paducah Parks and Recreation Department/Cross River Swim.  | Paducah, KY .....           | Ohio River, Mile 934.0–936.0 (Kentucky).  |
| 6. 1 day—First or second weekend in June.                       | Bellaire All-American Days .....   | Bellaire, OH .....          | Ohio River, Mile 93.5–94.5 (Ohio).  |
| 7. 2 days—Second weekend of June.                               | Rice's Landing Riverfest .....   | Rices Landing, PA .....     | Monongahela River, Mile 68.0–68.8 (Pennsylvania).   |
| 8. 1 day—One weekend in June ...                                | West Virginia Symphony Orchestra/Symphony Sunday.  | Charleston, WV .....        | Kanawha River, Mile 59.5–60.5 (West Virginia).  |
| 9. 1 day—Saturday before 4th of July.                           | Riverfest/Riverfest Inc. ....  | Nitro, WV .....             | Kanawha River, Mile 43.1–44.2 (West Virginia).  |
| 10. 1 day—First week or weekend in July.                        | Greenup City .....   | Greenup, KY .....           | Ohio River, Mile 335.2–336.2 (Kentucky).  |
| 11. 1 day—First week or weekend in July.                        | Middleport Community Association.  | Middleport, OH .....        | Ohio River, Mile 251.5–252.5 (Ohio).  |
| 12. 1 day—First week or weekend in July.                        | People for the Point Party in the Park.  | South Point, OH .....       | Ohio River, Mile 317–318 (Ohio).  |
| 13. 1 day—Last weekend in June or first weekend in July.        | Riverview Park Independence Festival.  | Louisville, KY .....        | Ohio River, Mile 617.5–620.5 (Kentucky).  |
| 14. 1 day—Third or fourth week in July.                         | Upper Ohio Valley Italian Heritage Festival/Upper Ohio Valley Italian Heritage Festival Fireworks. | Wheeling, WV .....          | Ohio River, Mile 90.0–90.5 (West Virginia).   |
| 15. 1 day—4th or 5th of July .....                              | City of Cape Girardeau July 4th Fireworks Show on the River.                                       | Cape Girardeau, MO .....    | Upper Mississippi River, Mile 50.0–52.0.  |
| 16. 1 day—Third or fourth of July ..                            | Harrah's Casino/Metropolis Fireworks.  | Metropolis, IL .....        | Ohio River, Mile 942.0–945.0 (Illinois).  |
| 17. 1 day—During the first week of July.                        | Louisville Bats Baseball Club/Louisville Bats Firework Show.                                       | Louisville, KY .....        | Ohio River, Mile 602.0–605.0 (Kentucky).  |
| 18. 1 day—During the first week of July.                        | Waterfront Independence Festival/Louisville Orchestra Waterfront 4th.                              | Louisville, KY .....        | Ohio River, Mile 602.0–605.0 (Kentucky).  |
| 19. 1 day—During the first week of July.                        | Celebration of the American Spirit Fireworks/All American 4th of July.                             | Owensboro, KY .....         | Ohio River, Mile 754.0–760.0 (Kentucky).  |
| 20. 1 day—During the first week of July.                        | Riverfront Independence Festival Fireworks.  | New Albany, IN .....        | Ohio River, Mile 606.5–609.6 (Indiana).   |
| 21. 1 day—July 4th .....  | Shoals Radio Group/Spirit of Freedom Fireworks.  | Florence, AL .....          | Tennessee River, Mile 254.5–257.4 (Alabama).  |
| 22. 1 day—Saturday before July 4th.                             | Town of Cumberland City/Lighting up the Cumberlandands.  | Cumberland City, TN .....   | Cumberland River, Mile 103.0–105.5 (Tennessee).   |
| 23. 1 day—July 4th .....  | City of Knoxville/Knoxville Festival on the 4th.   | Knoxville, TN .....         | Tennessee River, Mile 646.3–648.7 (Tennessee).  |
| 24. 1 day—July 4th .....  | Nashville NCVC/Independence Celebration.   | Nashville, TN .....         | Cumberland River, Mile 189.7–192.3 (Tennessee).   |
| 25. 1 day—Saturday before July 4th, or Saturday after July 4th. | Grand Harbor Marina/Grand Harbor Marina July 4th Celebration.                                      | Counce, TN .....            | Tennessee-Tombigbee Waterway, Mile 448.5–451.0 (Tennessee).                                 |
| 26. 1 day—One of the first two weekends in July.                | City of Bellevue, KY/Bellevue Beach Park Concert Fireworks.  | Bellevue, KY .....          | Ohio River, Mile 468.2–469.2 (Kentucky and Ohio).   |
| 27. 2 days—Sunday before Labor Day and Labor Day.               | Cincinnati Bell, WEBN, and Proctor and Gamble/Riverfest.   | Cincinnati, OH .....        | Ohio River, Mile 469.2–470.5 (Kentucky and Ohio) and Licking River Mile 0.0–3.0 (Kentucky). |
| 28. 1 day—July 4th .....  | Summer Motions Inc./Summer Motion.   | Ashland, KY .....           | Ohio River, Mile 322.1–323.1 (Kentucky).  |
| 29. 1 day—Last weekend in June or First weekend in July.        | City of Point Pleasant/Point Pleasant Sternwheel Fireworks.  | Point Pleasant, WV .....    | Ohio River, Mile 265.2–266.2, Kanawha River Mile 0.0–0.5 (West Virginia).                   |
| 30. 1 day—First week or weekend in July.                        | City of Charleston/City of Charleston Independence Day Celebration.                                | Charleston, WV .....        | Kanawha River, Mile 58.1–59.1 (West Virginia).  |
| 31. 1 day—First week or weekend in July.                        | Portsmouth River Days .....  | Portsmouth, OH .....        | Ohio River, Mile 355.5–356.5 (Ohio).  |

TABLE 1 OF § 165.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING SAFETY ZONES—Continued

| Date  | Sponsor/name  | Sector Ohio Valley location | Safety zone  |
|---|---|-----------------------------|--|
| 32. 1 day—Second Saturday in August.  | Guyasuta Days Festival/Borough of Sharpsburg.   | Pittsburgh, PA .....        | Allegheny River, Mile 005.5–006.0 (Pennsylvania).  |
| 33. 1 day—Second or third week of August.   | Pittsburgh Foundation/Bob O'Connor Cookie Cruise.   | Pittsburgh, PA .....        | Ohio River, Mile 0.0–0.5 (Pennsylvania).   |
| 34. 1 day—Second full week of August.   | PA FOB Fireworks Display .....  | Pittsburgh, PA .....        | Allegheny River, Mile 0.8–1.0 (Pennsylvania).  |
| 35. 1 day—Third week of August ..   | Beaver River Regatta Fireworks ..   | Beaver, PA .....            | Ohio River, Mile 25.2–25.8 (Pennsylvania).   |
| 36. 1 day—December 31 .....   | Pittsburgh Cultural Trust/Highmark First Night Pittsburgh.  | Pittsburgh, PA .....        | Allegheny River Mile, 0.5–1.0 (Pennsylvania).  |
| 37. 1 day—Friday before Thanksgiving.   | Pittsburgh Downtown Partnership/Light Up Night.   | Pittsburgh, PA .....        | Allegheny River, Mile 0.0–1.0 (Pennsylvania).  |
| 38. Multiple days—April through November.   | Pittsburgh Riverhounds/Riverhounds Fireworks.   | Pittsburgh, PA .....        | Monongahela River, Mile 0.22–0.77 (Pennsylvania).  |
| 39. 3 days—One of the last three weekends in June.                                  | Hadi Shrine/Evansville Freedom Festival Air Show.   | Evansville, IN .....        | Ohio River, Miles 790.0–796.0 (Indiana).   |
| 40. 1 day—Second or third Saturday in June, the last day of the Riverbend Festival. | Friends of the Festival, Inc./Riverbend Festival Fireworks.                                       | Chattanooga, TN .....       | Tennessee River, Mile 462.7–465.2 (Tennessee).   |
| 41. 2 days—Second Friday and Saturday in June.                                      | City of Newport, KY/Italianfest .....   | Newport, KY .....           | Ohio River, Miles 468.6–471.0 (Kentucky and Ohio).   |
| 42. 1 day—Last weekend in June or first weekend in July.                            | City of Aurora/Aurora Firecracker Festival.   | Aurora, IN .....            | Ohio River Mile, 496.7; 1400 ft. radius from the Consolidated Grain Dock located along the State of Indiana shoreline at (Indiana and Kentucky). |
| 43. 1 day—second weekend in June.   | City of St. Albans/St. Albans Town Fair.  | St. Albans, WV .....        | Kanawha River, Mile 46.3–47.3 (West Virginia).   |
| 44. 1 day—Last week of June or first week of July.                                  | PUSH Beaver County/Beaver County Boom.  | Beaver, PA .....            | Ohio River, Mile 25.2–25.6 (Pennsylvania).   |
| 45. 1 day—4th of July (Rain date—July 5th).   | Monongahela Area Chamber of Commerce/Monongahela 4th of July Celebration.                         | Monongahela, PA .....       | Monongahela River, Mile 032.0–033.0 (Pennsylvania).  |
| 46. 1 day—Saturday Third or Fourth full week of July (Rain date—following Sunday).  | Oakmont Yacht Club/Oakmont Yacht Club Fireworks.  | Oakmont, PA .....           | Allegheny River, Mile 12.0–12.5 (Pennsylvania).  |
| 47. 1 day—Week of July 4th .....  | EQT 4th of July Celebration .....   | Pittsburgh, PA .....        | Ohio River, Mile 0.0–0.5, Allegheny River, Mile 0.0–0.5, and Monongahela River, Mile 0.0–0.5 (Pennsylvania).                                     |
| 48. 1 day—3rd or 4th of July .....  | City of Paducah, KY .....   | Paducah, KY .....           | Ohio River, Mile 934.0–936.0; Tennessee River, mile 0.0–1.0 (Kentucky).  |
| 49. 1 day—3rd or 4th of July .....  | City of Hickman, KY .....   | Hickman, KY .....           | Lower Mississippi River, Mile 921.0–923.0 (Kentucky).  |
| 50. 1 day—Last weekend in June or first week in July.                               | Evansville Freedom Celebration/4th of July Fireworks.   | Evansville, IN .....        | Ohio River, Miles 790.0–796.0 (Indiana).   |
| 51. 1 day—One of the first two weekends in July.                                    | Madison Regatta, Inc./Madison Regatta.  | Madison, IN .....           | Ohio River, Miles 554.0–561.0 (Indiana).   |
| 52. 1 day—July 4th .....  | Cities of Cincinnati, OH and Newport, KY/July 4th Fireworks.                                      | Newport, KY .....           | Ohio River, Miles 469.6–470.2 (Kentucky and Ohio).   |
| 53. 2 days—One weekend in July  | Marietta Riverfront Roar Fireworks  | Marietta, OH .....          | Ohio River, Mile 171.6–172.6 (Ohio).   |
| 54. 1 day—First week or weekend in July.  | Gallia County Chamber of Commerce/Gallipolis River Recreation Festival.                           | Gallipolis, OH .....        | Ohio River, Mile 269.5–270.5 (Ohio).   |
| 55. 1 day—First week or weekend in July.  | Kindred Communications/Dawg Dazzle.   | Huntington, WV .....        | Ohio River, Mile 307.8–308.8 (West Virginia).  |
| 56. Multiple days—September through January.  | University of Pittsburgh Athletic Department/University of Pittsburgh Fireworks.                  | Pittsburgh, PA .....        | Ohio River mile 0.0–0.1, Monongahela River mile 0.0–0.1, Allegheny River mile 0.0–0.25 (Pennsylvania).   |
| 57. Sunday, Monday, or Thursday from August through February.                       | Pittsburgh Steelers Fireworks .....   | Pittsburgh, PA .....        | Allegheny River mile 0.0–0.25, Ohio River mile 0.0–0.1, Monongahela River mile 0.0–0.1.  |
| 58. 3 days—Third week in September.   | Wheeling Heritage Port Sternwheel Festival Foundation/Wheeling Heritage Port Sternwheel Festival. | Wheeling, WV .....          | Ohio River, Mile 90.2–90.7 (West Virginia).  |
| 59. 1 day—One weekend in September.   | Ohio River Sternwheel Festival Committee fireworks.   | Marietta, OH .....          | Ohio River, Mile 171.5–172.5 (Ohio).   |

TABLE 1 OF § 165.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING SAFETY ZONES—Continued

| Date   | Sponsor/name   | Sector Ohio Valley location | Safety zone  |
|--|--|-----------------------------|--|
| 60. 1 day—Second weekend of October.                         | Leukemia and Lymphoma Society/Light the Night Walk Fireworks.              | Nashville, TN .....         | Cumberland River, Mile 189.7–192.1 (Tennessee).  |
| 61. 1 day—One weekend in October.                            | West Virginia Motor Car Festival   | Charleston, WV .....        | Kanawha River, Mile 58–59 (West Virginia).   |
| 62. 1 day—Friday before Thanksgiving.                        | Kittanning Light Up Night Firework Display.                                | Kittanning, PA .....        | Allegheny River, Mile 44.5–45.5 (Pennsylvania).  |
| 63. 1 day—First week in October ..                           | Leukemia & Lymphoma Society/Light the Night.                               | Pittsburgh, PA .....        | Ohio River, Mile 0.0–0.4 (Pennsylvania).   |
| 64. 1 day—Friday before Thanksgiving.                        | Duquesne Light/Santa Spectacular.  | Pittsburgh, PA .....        | Monongahela River, Mile 0.00–0.22, Allegheny River, Mile 0.00–0.25, and Ohio River, Mile 0.0–0.3 (Pennsylvania). |
| 65. 1 day—During the first two weeks of July.                | City of Maysville Fireworks .....  | Maysville, KY .....         | Ohio River, Mile 408–409 (Kentucky).   |
| 66. 1 day—Saturday before Memorial Day.                      | Venture Outdoors/Venture Outdoors Festival.                                | Pittsburgh, PA .....        | Allegheny River, Mile 0.0–0.25; Monongahela River, Mile 0.0–0.25 (Pennsylvania).                                 |
| 67. 1 day—Third Saturday in July                             | Pittsburgh Irish Rowing Club/St. Brendan's Cup Currach Regatta.            | Pittsburgh, PA .....        | Ohio River, Mile 7.0–9.0 (Pennsylvania).   |
| 68. 1 day—July 4th .....                                     | Wellsburg 4th of July Committee/Wellsburg 4th of July Freedom Celebration. | Wellsburg, WV .....         | Ohio River, Mile 73.5–74.5 (West Virginia).  |
| 69. 1 day—Last week in June or first week of July.           | Newburgh Fireworks Display .....   | Newburgh, IN .....          | Ohio River, Mile 777.3–778.3 (Indiana).  |
| 70. 3 days—Third or Fourth weekend in April.                 | Henderson Tri-Fest/Henderson Breakfast Lions Club.                         | Henderson, KY .....         | Ohio River, Mile 802.5–805.5 (Kentucky).   |
| 71. 1 day—Third week of November.                            | Gallipolis in Lights .....   | Gallipolis, OH .....        | Ohio River, Mile 269.2–270 (Ohio).   |
| 72. 1 day—One weekend in September.                          | Tribute to the River .....   | Point Pleasant, WV .....    | Ohio River, Mile 264.6–265.6 (West Virginia).  |
| 73. 1 day—Labor Day or first week of September.              | Labor Day Fireworks Show .....   | Marmet, WV .....            | Kanawha River, Mile 67.5–68 (West Virginia).   |
| 74. 1 day—One weekend in August.                             | Ravenswood River Festival .....  | Ravenswood, WV .....        | Ohio River, Mile 220–221 (West Virginia).  |
| 75. 1 day—First weekend or week in July.                     | Queen's Landing Fireworks .....  | Greenup, KY .....           | Ohio River, Mile 339.3–340.3 (West Virginia).  |
| 76. 1 day—First weekend in June                              | Cumberland River Compact/Nashville Splash Bash.                            | Nashville, TN .....         | Cumberland River, Mile 189.7–192.1 (Tennessee).  |
| 77. 1 day—Second weekend in September.                       | Nashville Symphony/Concert Fireworks.                                      | Nashville, TN .....         | Cumberland River, Mile 190.1–192.3 (Tennessee).  |
| 78. 1 day—Second or third weekend in October.                | Outdoor Chattanooga/Swim the Suck.   | Chattanooga, TN .....       | Tennessee River, Mile 452.0–454.5 (Tennessee).   |
| 79. 1 day—Friday or Saturday after Thanksgiving.             | Friends of the Festival/Cheer at the Pier.                                 | Chattanooga, TN .....       | Tennessee River, Mile 462.7–465.2 (Tennessee).   |
| 80. 1 day—July 3rd .....                                     | Chattanooga Presents/Pops on the River.                                    | Chattanooga, TN .....       | Tennessee River, Mile 462.7–465.2 (Tennessee).   |
| 81. 7 days—Scheduled home games.                             | University of Tennessee/UT Football Fireworks.                             | Knoxville, TN .....         | Tennessee River, Mile 645.6–648.3 (Tennessee).   |
| 82. 1 day—July 3rd .....                                     | Randy Boyd/Independence Celebration Fireworks Display.                     | Knoxville, TN .....         | Tennessee River, Mile 625.0–628.0 (Tennessee).   |
| 83. 1 day—Second weekend in September.                       | City of Clarksville/Clarksville Riverfest.                                 | Clarksville, TN .....       | Cumberland River, Mile 124.5–127.0 (Tennessee).  |
| 84. 1 day—Fourth weekend in October.                         | Chattajack .....   | Chattanooga, TN .....       | Tennessee River, Mile 462.7–465.5 (Tennessee).   |
| 85. 1 day—First week in May .....                            | Belterra Park Gaming Fireworks ..  | Cincinnati, OH .....        | Ohio River, Mile 460.0–462.0 (Ohio).   |
| 86. 1 day—First week of July .....                           | Cincinnati Symphony Orchestra ...  | Cincinnati, OH .....        | Ohio River, Mile 460.0–462.0 (Ohio).   |
| 87. 1 day—First week in August ...                           | Gliers Goetta Fest LLC .....   | Newport, KY .....           | Ohio River, Mile 469.0–471.0.  |
| 88. 1 day—last 2 weekends in August/first week of September. | Wheeling Dragon Boat Race .....  | Wheeling, WV .....          | Ohio River mile 90.4–91.5 (West Virginia).   |
| 89. 1 day—week of July 4th .....                             | Wheeling Symphony fireworks ....   | Wheeling, WV .....          | Ohio River mile 90–92 (West Virginia).   |
| 90. 1 day—week of July 4th .....                             | Chester Fireworks .....  | Chester, WV .....           | Ohio River mile 42.0–44.0 (West Virginia).   |
| 91. 1 day—First week of August ...                           | Kittanning Folk Festival .....   | Kittanning, PA .....        | Allegheny River mile 44.0–46.0 (Pennsylvania).   |
| 92. 2 days—One weekend in August.                            | Powerboat Nationals-Parkersburg Regatta/Parkersburg Homecoming Festival.   | Parkersburg, WV .....       | Ohio River mile 183.5–185.5 (West Virginia).   |

TABLE 1 OF § 165.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING SAFETY ZONES—Continued

| Date                             | Sponsor/name                               | Sector Ohio Valley location | Safety zone                                  |
|----------------------------------|--|-----------------------------|--|
| 93. 1 day—One weekend in August. | Parkersburg Homecoming Festival-Fireworks. | Parkersburg, WV .....       | Ohio River mile 183.5–185.5 (West Virginia). |

\* \* \* \* \*

Dated: May 7, 2018.

**M.B. Zamperini,**

Captain, U. S. Coast Guard, Captain of the Port Sector Ohio Valley.

[FR Doc. 2018–10088 Filed 5–10–18; 8:45 am]

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**DEPARTMENT OF VETERANS AFFAIRS****38 CFR Part 17**

RIN 2900–AP60

**Expanded Access to Non-VA Care Through the Veterans Choice Program****AGENCY:** Department of Veterans Affairs.**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) adopts as final, with no change, an interim final rule revising its medical regulations that implement section 101 of the Veterans Access, Choice, and Accountability Act of 2014, as amended, (hereafter referred to as “the Choice Act”), which requires VA to establish a program (hereafter referred to as the “Veterans Choice Program” or the “Program”) to furnish hospital care and medical services through eligible non-VA health care providers to eligible veterans who either cannot be seen within the wait-time goals of the Veterans Health Administration (VHA) or who qualify based on their place of residence or face an unusual or excessive burden in traveling to a VA medical facility. Those revisions contained in the interim final rule, which is now adopted as final, were required by amendments to the Choice Act made by the Construction Authorization and Choice Improvement Act of 2014, and by the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015. VA published an interim final rule on December 1, 2015, implementing those regulatory revisions, and we received seven public comments. This final rule responds to those public comments and does not make any further regulatory revisions.

**DATES:** *Effective date:* This rule is effective on May 11, 2018.

**FOR FURTHER INFORMATION CONTACT:** Joseph Duran, Director, Policy and

Planning, Office of Community Care (10D1A1), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (303) 372–4629. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** The Choice Act, Public Law 113–146, was enacted on August 7, 2014. Further amendments to the Choice Act were made by Public Laws 113–175, 113–235, 114–19, 114–41, and 115–26. Under these authorities, VA established the Veterans Choice Program and published regulations at 38 CFR 17.1500 through 17.1540. This final rule revises VA regulations in accordance with the amendments to the Choice Act made by Public Laws 114–19 and 114–41. Public Law 114–19, the Construction Authorization and Choice Improvement Act, amended the Choice Act to define additional criteria that VA may use to determine that a veteran’s travel to a VA medical facility is an “unusual or excessive burden.” Public Law 114–41, the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, amended the Choice Act to expand eligibility for the Veterans Choice Program to all veterans enrolled in the VA health care system, to remove the 60-day limit on an episode of care, modify the wait-time and 40-mile distance eligibility criteria, and expand provider eligibility based on criteria as determined by VA. VA published an interim final rule on December 1, 2015, to implement these amendments to the Choice Act. 80 FR 74991. We received seven comments on the interim final rule and respond to those comments in the discussion below. We are adopting as final the interim final rule with no revisions.

*Comments regarding changes in Public Law 114–19 related to the “unusual or excessive burden” standard.*

Section 3(a)(2) of Public Law 114–19 amended section 101(b)(2)(D)(ii)(II) of the Choice Act by defining additional criteria that could be the basis for finding that a veteran faced an “unusual or excessive burden” in traveling to receive care in a VA medical facility, including environmental factors such as roads that are not accessible to the general public, traffic, or hazardous weather; a medical condition that affects

the ability to travel; or other factors, as determined by the Secretary. The interim final rule revised § 17.1510(b)(4)(ii) to include environmental factors such as roads that are not accessible to the general public, traffic, or hazardous weather, or a medical condition that affects the ability to travel. The interim final rule also added three “other factors” to § 17.1510(b)(4)(ii)(A) through (C): The nature or simplicity of the hospital care or medical services the veteran requires; how frequently the veteran needs such hospital care; or medical services, and the need for an attendant, which is defined as a person who provides required aid and/or physical assistance to the veteran, for a veteran to travel to a VA medical facility for hospital care or medical services. VA received one positive comment in support of the revisions to § 17.1510(b)(4)(ii), and we thank the commenter for this feedback. VA did not receive any comments that suggested changes to the revisions to § 17.1510(b)(4)(ii), and therefore does not make further regulatory revisions.

*Comments regarding changes in Public Law 114–41 related to veteran eligibility, periods of follow up care, wait times, distance requirements, and provider eligibility.*

Section 4005(b) of Public Law 114–41 amended section 101 of the Choice Act to remove the August 1, 2014, enrollment date restriction, thereby making all veterans enrolled in the VA health care system under § 17.36 potentially eligible for the Program if they meet its other eligibility criteria. Section 17.1510 was therefore revised in the interim final rule to codify this expanded eligibility for the Program. VA implemented this change ahead of the § 17.1510 revision, as this change was not subject to notice and comment because it had an immediate effective date and VA did not need to interpret the language of the public law to give it effect. VA also did not receive any comments on this revision, and does not make any further regulatory revisions.

Section 4005(a) of Public Law 114–41 amended section 101(h) of the Choice Act by removing the 60-day limitation on an “episode of care.” Sec. 4005(a), Public Law 114–41, 129 Stat. 443. The definition of “episode of care” in § 17.1505 was therefore revised in the interim final rule by removing the