

**DEPARTMENT OF LABOR****Office of the Secretary****29 CFR Part 18****RIN 1290-AA36****Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges****AGENCY:** Office of the Secretary, Department of Labor.**ACTION:** Direct final rule; withdrawal.

**SUMMARY:** Due to the receipt of significant adverse comment, the Department of Labor is withdrawing the January 11, 2021 direct final rule (DFR) that would have provided for electronic filing (e-filing) and electronic service (e-service) of papers, required e-filing for persons represented by attorneys or non-attorney representatives unless good cause is shown justifying a different form of filing, and required advance notice to the parties of the manner of a hearing or prehearing conference.

**DATES:** Effective February 25, 2021, the direct final rule published at 86 FR 1800 on January 11, 2021, is withdrawn.

**FOR FURTHER INFORMATION CONTACT:** Todd Smyth, General Counsel, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street NW, Washington, DC 20001-8002; telephone (513) 684-3252. Individuals with hearing or speech impairments may access the telephone number above by TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

**SUPPLEMENTARY INFORMATION:** In the DFR, the Department stated that if a significant adverse comment was submitted by February 10, 2021, the Department would publish a timely withdrawal in the **Federal Register** informing the public that the DFR will not take effect. The Department also issued an identical notice of proposed rulemaking (NPRM) on the same day (86 FR 1862). The Department received significant adverse comment prior to the close of the comment period and is therefore withdrawing the DFR. The Department also received a request to extend the comment period and will reopen the comment period for the NPRM for 15 days in a future document. In issuing a final action, the Department will consider comments received on the DFR and NPRM during the initial comment period as well as comments received during the subsequent comment period. The Department will also provide at least 30 days' notice

between promulgating a final rule that requires e-filing and the date on which e-filing will become mandatory under such a rule. Furthermore, the Department notes that several comments raised concerns with the Department's electronic filing system and not the requirements of the proposed or direct final rules. To better understand and address these concerns, the Department plans to hold listening sessions during the coming weeks for users to provide feedback on the system. Information about those sessions will be announced at <https://efile.dol.gov>.

**List of Subjects in 29 CFR Part 18**

Administrative practice and procedure, Labor.

**PART 18—RULES OF PRACTICE AND PROCEDURE FOR ADMINISTRATIVE HEARINGS BEFORE THE OFFICE OF ADMINISTRATIVE LAW JUDGES**

Accordingly, the amendments to 29 CFR part 18, published in the **Federal Register** on January 11, 2021 (86 FR 1800), are withdrawn as of February 25, 2021.

**Milton A. Stewart,***Acting Secretary of Labor.*

[FR Doc. 2021-04005 Filed 2-23-21; 4:15 pm]

**BILLING CODE 4510-HW-P****DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165****[Docket Number USCG-2021-0098]****RIN 1625-AA00****Safety Zone; Ohio River, New Richmond, OH****AGENCY:** Coast Guard, Department of Homeland Security (DHS).**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary safety zone for all navigable waters of the Ohio River from mile marker (MM) 452.0 to MM 454.0 near New Richmond, OH. This action is necessary to provide for the safety of life on these navigable waters near New Richmond, OH, during a demolition project. Entry into, transiting through, or anchoring within this zone is prohibited unless authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative.

**DATES:** This rule is effective on February 26, 2021 through February 28, 2021.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2021-0098 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 MST1 Matthew Roberts, Waterways Department Marine Safety Detachment Cincinnati, U.S. Coast Guard; telephone 513-921-9033, email [msdcincinnati@uscg.mil](mailto:msdcincinnati@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 Information and Regulatory History**

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. On February 15, 2021, the Coast Guard was notified of a demolition event that will take place on the Ohio River, between Mile Marker (MM) 452.0 to MM 454.0 near New Richmond, OH from 9:30 a.m. through 10:30 a.m. on February 26, 2021 or if inclement weather is present the demolition event will take place on February 27, 2021 or February 28, 2021, from 9:30 a.m. through 10:30 a.m. Notice of the demolition event did not give the Coast Guard enough time to publish an NPRM, take public comments, and issue a final rule before the demolition work is set to begin. It would be impracticable and contrary to the public interest to delay promulgating this rule as it is necessary to establish this safety zone on February 26, 2021 to protect the safety of anyone within a two mile radius of the area associated with the demolition. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this

rule 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 the demolition.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Ohio Valley (COTP) has determined that potential hazards associated with the demolition occurring on February 26, 2021, will be a safety concern for anyone near the demolition site. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

### IV. Discussion of the Rule

This rule establishes a safety zone from 9:30 a.m. through 10:30 a.m. on February 26, 2021. The back up dates will be February 27, 2021 or February 28, 2021, from 9:30 a.m. through 10:30 a.m. The temporary safety zone would cover all navigable waters on the Ohio River extending from MM 452.0 to MM 454.0 near New Richmond, OH. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 9:30 a.m. through 10:30 a.m. demolition. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

### 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. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule 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 temporary safety zone.

The temporary safety zone would only be in effect for 1 hour and limit access to a two-mile stretch of the Ohio River near New Richmond, OH. The Coast Guard expects minimum adverse impact to mariners. Also, mariners would be permitted to request authorization from the COTP or a designated representative to transit the temporary safety 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 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 V.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 call or email 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.

#### 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.

#### 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 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 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. This rule involves a safety zone lasting 1 hour, which would prohibit entry within a 2-mile stretch of the Ohio River near New Richmond, OH. It is 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 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.

#### 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.

#### 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:** 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T08–0098 to read as follows:

#### § 165.T08–0098 Safety Zone; Ohio River, New Richmond, OH.

(a) *Location.* The following area is a temporary safety zone: All navigable waters of the Ohio River between MM 452.0 to MM 454.0 in New Richmond, OH.

(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 Sector Ohio Valley (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative. Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM radio channel 16 or phone at 1–800–253–7465.

(2) Persons and vessels permitted to enter this safety zone must transit at the slowest safe speed and comply with all lawful directions issued by the COTP or a designated representative.

(d) *Enforcement period.* This section will be enforced from 9:30 a.m. until 10:30 a.m. on February 26, 2021. The back up dates will be February 27, 2021 or February 28, 2021, from 9:30 a.m. until 10:30 a.m.

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners and the Local Notice to Mariners of the enforcement period for the temporary safety zone as well as any changes in the planned schedule.

Dated: February 19, 2021.

A.M. Beach,

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

[FR Doc. 2021–03974 Filed 2–24–21; 8:45 am]

BILLING CODE 9110–04–P

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Centers for Medicare & Medicaid Services

#### 42 CFR Parts 410, 411, 412, 414, 416, 419, 482, 485, 512

[CMS–1736–CN]

RIN 0938–AU12

#### Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; New Categories for Hospital Outpatient Department Prior Authorization Process; Clinical Laboratory Fee Schedule: Laboratory Date of Service Policy; Overall Hospital Quality Star Rating Methodology; Physician-Owned Hospitals; Notice of Closure of Two Teaching Hospitals and Opportunity To Apply for Available Slots; Radiation Oncology Model; and Reporting Requirements for Hospitals and Critical Access Hospitals (CAHs) to Report COVID–19 Therapeutic Inventory and Usage and To Report Acute Respiratory Illness During the Public Health Emergency (PHE) for Coronavirus Disease 2019 (COVID–19); Correction

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

**ACTION:** Final rule with comment period and interim final rule; correction.

**SUMMARY:** This document corrects technical and typographical errors in the final rule with comment period and interim final rule with comment period published in the **Federal Register** on December 29, 2020, titled “Hospital

Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; New Categories for Hospital Outpatient Department Prior Authorization Process; Clinical Laboratory Fee Schedule: Laboratory Date of Service Policy; Overall Hospital Quality Star Rating Methodology; Physician-owned Hospitals; Notice of Closure of Two Teaching Hospitals and Opportunity To Apply for Available Slots; Radiation Oncology Model; and Reporting Requirements for Hospitals and Critical Access Hospitals (CAHs) to Report COVID–19 Therapeutic Inventory and Usage and to Report Acute Respiratory Illness During the Public Health Emergency (PHE) for Coronavirus Disease 2019 (COVID–19)”.

**DATES:** *Effective date:* This correction is effective February 25, 2021.

*Applicability date:* The corrections in this correcting document are applicable beginning January 1, 2021.

#### FOR FURTHER INFORMATION CONTACT:

Elise Barringer via email [Elise.Barringer@cms.hhs.gov](mailto:Elise.Barringer@cms.hhs.gov) or at (410) 786–9222.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In FR Doc. 2020–26819 of December 29, 2020 (85 FR 85866), there were a number of technical and typographical errors that are identified and corrected in the Correction of Errors section below. The corrections in this correction document are applicable as if they had been included in the document that was issued on December 4, 2020, and published December 29, 2020. Accordingly, each correction is applicable on January 1, 2021.

##### II. Summary of Errors

##### A. Summary of Errors in the Preamble

##### 1. Hospital Outpatient Prospective Payment System (OPPS) Corrections

On page 85987 of the “OPPS APC-Specific Policies” section, we inadvertently omitted a summary of a public comment and response related to existing CPT codes 0607T and 0608T. Therefore, we are adding a new subsection titled “31. Other Procedures/Services” that includes a summary of this public comment and our response.

On page 86033, we are correcting an inadvertent reference to the quarter for which ASP data will be used to calculate payment rates for HCPCS codes for separately payable drugs and biologicals included in Addenda A and B: It is the second quarter of CY 2020, not the third quarter of CY 2020.

On Page 86035, we inadvertently referred to CY 2018, rather than CY