

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP Pittsburgh-02-019]

RIN 1625-AA00 (Formerly RIN 2115-AA97)

#### Security Zone; Ohio River Mile 119.0 to 119.8, Natrium, West Virginia

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

**SUMMARY:** The Coast Guard is establishing a security zone encompassing all waters extending 200 feet from the water's edge of the left descending bank of the Ohio River, beginning from mile marker 119.0 and ending at mile marker 119.8. This security zone is necessary to protect Pittsburgh Plate Glass Industries (PPG), persons and vessels from subversive or terrorist acts. Entry of persons and vessels into this security zone is prohibited unless authorized by the Coast Guard Captain of the Port Pittsburgh or a designated representative.

**DATES:** This rule is effective beginning March 15, 2003.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [COTP Pittsburgh-02-019] and are available for inspection or copying at Marine Safety Office Pittsburgh, Suite 1150 Kossman Bldg., 100 Forbes Ave. Pittsburgh, PA 15222-1371, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Petty Officer (PO) Michael Marsula, Marine Safety Office Pittsburgh at (412) 644-5808 x2114.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On December 16, 2002, the Coast Guard published a notice of proposed rulemaking entitled "Security Zone; Ohio River Mile 119.0 to 119.8, Natrium, West Virginia", in the **Federal Register** (67 FR 77008). We received no comments on the proposed rule. No public hearing was requested, and none was held.

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**. This final rule maintains the status quo for the security zone. We received no comments on either the

temporary final rule or the NPRM. Delaying its effective date would be contrary to public interest because immediate action is needed to continue to respond to existing security risks.

#### Background and Purpose

The Captain of the Port Pittsburgh established a temporary security zone for the area adjacent to PPG that expired June 15, 2002 [COTP Pittsburgh-02-001] (67 FR 9589, March 4, 2002). No comments or objections were received concerning this rule. National security and intelligence officials have warned that future terrorist attacks against civilian targets are anticipated. In response to those continued threats, heightened awareness and security of our ports and harbors is necessary. The Captain of the Port has established a temporary security zone for this area [COTP Pittsburgh-02-019] (67 FR 58332). That temporary final rule was published in the **Federal Register** on September 16, 2002. Advisories regarding continued threats of terrorism have revealed the need for a continuous security zone to protect PPG, persons, and vessels from subversive or terrorist attacks. This security zone includes the waters of the Ohio River extending 200 feet from the water's edge of the left descending bank between mile markers 119.0 and 119.8.

The Captain of the Port, Pittsburgh has determined that there is a need for this security zone to remain in effect indefinitely because of the continued threat of terrorism and the nature of the material handled at PPG.

#### Discussion of Comments and Changes

We received no comments on the proposed rule. Therefore, we have made no substantive changes to the provisions of the proposed rule.

#### Regulatory Evaluation

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

This rule will not obstruct the regular flow of vessel traffic and will allow vessel traffic to pass safely around the security zone. Vessels may be permitted to enter the security zone on a case-by-case basis.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. The Coast Guard is unaware of any small entities that would be impacted by this rule. The navigable channel remains open to all vessel traffic. We received no comments or objections regarding the previous security zone covering the same area.

If you are a small business entity and are significantly affected by this regulation please contact PO Michael Marsula, U.S. Coast Guard Marine Safety Office Pittsburgh, Suite 1150, Kossman Bldg., 100 Forbes Ave., Pittsburgh, PA at (412) 644-5808, X2114.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. 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).

#### Collection of Information

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

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of

compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

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

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### Indian Tribal Governments

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.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect

on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211

#### Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because this rule is not expected to result in any significant environmental impact as described in the National Environmental Policy Act of 1969 (NEPA). A “Categorical Exclusion Determination” is available in the docket where indicated under ADDRESSES.

#### List of Subjects in 33 CFR Part 165

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

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(g), 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.

2. Add § 165.822 to read as follows:

##### § 165.822 Security Zone; Ohio River Mile 119.0 to 119.8 Natrium, WV.

(a) *Location.* The following area is a security zone: the waters of the Ohio River extending 200 feet from the water’s edge of the left descending bank between mile markers 119.0 and 119.8.

(b) *Regulations.* (1) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Pittsburgh or a designated representative.

(2) Persons or vessels desiring to transit the area of the security zone may contact the Captain of the Port Pittsburgh at telephone number 412–644–5808 or on VHF channel 16 to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port Pittsburgh or a designated representative.

(c) *Authority.* In addition to 33 U.S.C. 1231, the authority for this section includes 33 U.S.C. 1226.

Dated: March 10, 2003.

**Steve L. Hudson,**

*Commander, U.S. Coast Guard, Captain of the Port, Pittsburgh.*

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#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[AZ 078–0068; FRL–7460–9]

#### Revision to the Arizona State Implementation Plan, Arizona Department of Environmental Quality

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing a limited approval and limited disapproval of a revision to the Arizona Department of Environmental Quality (ADEQ) portion of the Arizona State Implementation Plan (SIP). This action was proposed in the **Federal Register** on October 11, 2002 and concerns definitions, volatile organic compound (VOC) emissions from dry cleaning plants, VOC emissions from spray painting operations, and particulate matter (PM–10) emissions from mobile sources. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action directs Arizona to correct the deficiencies in the submitted rules. EPA is also finalizing a full approval of a revision to the Arizona Department of Environmental Quality (ADEQ) portion of the Arizona SIP. This action was proposed in the **Federal Register** on October 11, 2002 and concerns VOC emissions from petroleum storage vessels and PM–10 emissions from mobile sources.

**EFFECTIVE DATE:** Today’s final rule is effective on April 23, 2003.

**ADDRESSES:** You can inspect copies of the administrative record for this action at EPA’s Region IX office during normal business hours. You can inspect a copy of the submitted rule revisions at the following locations:

Environmental Protection Agency, Region IX,  
75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

Arizona Department of Environmental Quality, 1110 West Washington Street, Phoenix, AZ 85007.