

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