

## New Years Eve Fireworks Display

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Date: December 31

Dated: July 2, 2004.

## Sally Brice-O'Hara,

Rear Admiral, U.S. Coast Guard, Commander,  
Fifth Coast Guard District.

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DEPARTMENT OF HOMELAND  
SECURITY

## Coast Guard

## 33 CFR Part 165

[COTP Pittsburgh-03-030]

RIN 1625-AA00

Security Zone; Ohio River Mile 119.0 to  
119.8, Natrium, WV

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

**SUMMARY:** The Coast Guard is removing an established security zone that encompasses 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 protects Pittsburgh Plate Glass Industries (PPG), persons and vessels from subversive or terrorist acts. Under the Maritime Transportation Security Act of 2002, owners or operators of this facility are required to take specific action to improve facility security. As such, a security zone around this facility is no longer necessary under normal conditions. This rule removes the established security zone.

**DATES:** This final rule is effective on July 1, 2004.

**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-03-030) 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:** Lieutenant (LT) Luis Parrales, Marine Safety Office Pittsburgh at (412) 644-5808, ext. 2114.

## SUPPLEMENTARY INFORMATION:

## Regulatory History

On January 9, 2004, we published a notice of proposed rulemaking (NPRM)

entitled "Security Zone; Ohio River Mile 119.0 to 119.8, Natrium, WV" in the **Federal Register** (69 FR 1556). We received no comments on the proposed rule. No public hearing was requested, and none was held.

## Background and Purpose

On March 24, 2003, the Coast Guard published a final rule entitled "Security Zone; Ohio River Mile 119.0 to 119.8, Natrium, West Virginia", in the **Federal Register** (68 FR 14150). That final rule established a security zone that encompasses 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 protects Pittsburgh Plate Glass Industries (PPG), persons and vessels from subversive or terrorist acts.

Under the authority of the Maritime Transportation Security Act of 2002, the Coast Guard published a final rule on October 22, 2003, entitled "Facility Security" in the **Federal Register** (68 FR 60515) that established 33 CFR 105. That final rule became effective November 21, 2003, and provides security measures for certain facilities, including PPG. Section 105.200 of 33 CFR requires owners or operators of the PPG facility to designate security officers for facilities, develop security plans based on security assessments and surveys, implements security measures specific to the facility's operations, and comply with Maritime Security Levels. Under 33 CFR 105.115, the owner or operator of this facility must, by December 31, 2003, submit to the Captain of the Port, a Facility Security Plan as described in subpart D of 33 CFR part 105, or if intending to operate under an approved Alternative Security Program as described in 33 CFR 101.130, a letter signed by the facility owner or operator stating which approved Alternative Security Program the owner or operator intends to use. Section 105.115 of 33 CFR also requires the facility owner or operator to be in compliance with 33 CFR part 105 on or before July 1, 2004. As a result of these enhanced security measures, the security zone around PPG is no longer necessary under normal conditions. The removal of this security zone will become effective on July 1, 2004.

## Discussion of Comments and Changes

We received no comments on our proposal to remove the security zone in § 165.822. Therefore, we are proceeding to remove § 165.822 as we proposed.

## Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 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).

We expect the economic impact of this rule to be so minimal that a full regulatory evaluation under the regulatory policies and procedures of DHS is unnecessary as this rule removes a regulation that is no longer necessary.

## 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 will not have a significant economic impact on a substantial number of small entities.

## Assistance for Small Entities

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

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 will not result in such expenditure, we 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 does not create an environmental risk to health or risk to safety that may 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 analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1 paragraph (34)(g), of the instruction, from further environmental documentation because this rule is not expected to result in any significant environmental impact as described in NEPA.

Under figure 2–1, paragraph (34)(g), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this rule.

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

Harbors, Marine safety, Navigation (water), Reporting and record keeping 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

##### § 165.822 [Removed]

■ 2. Remove § 165.822.

Dated: June 30, 2004.

**W.W. Briggs,**

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

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[COTP Memphis 04–001]

RIN 1625–AA00

#### Safety Zone; Lower Mississippi River Mile Marker 778.0 to 781.0, Osceola, AR

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for all the waters of the Lower Mississippi River from mile 778.0 and to mile 781.0, extending the entire width of the channel. This safety zone is needed to protect construction personnel, equipment, and vessels involved in the construction of ten bendway weir sites. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port Memphis or a designated representative.

**DATES:** This rule is effective from 6 a.m. on August 1, 2004, until 6 p.m. on September 30, 2004.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket (COTP Memphis-04–001) and are available for inspection or copying at Marine Safety Office Memphis, 200 Jefferson Avenue, Suite 1301, Memphis, Tennessee, 38103–2300 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Chief Petty Officer (CPO) James Dixon, Marine Safety Office Memphis at (901) 544–3941, extension 2116.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

On April 23, 2004, we published a notice of proposed rulemaking (NPRM) entitled “Safety Zone; Lower Mississippi River Mile Marker 778.0 to 781.0, Osceola, AR” in the **Federal Register** (69 FR 21981). We received no comments on the proposed rule. No public hearing was requested, and none was held.

##### Background and Purpose

On February 26, 2004, the Army Corps of Engineers requested a channel closure for the Lower Mississippi River from mile 778.0 to 781.0, to occur daily from 6 a.m. until 6 p.m. beginning on August 1, 2004, and ending on September 30, 2004. The effective dates for this rule are based upon the best