

casualties and property damage. These attacks highlighted the terrorists' ability and desire to utilize multiple means in different geographic areas to increase their opportunities to successfully carry out their mission, thereby maximizing destruction using multiple terrorist acts.

Since the September 11, 2001 terrorist attacks on the World Trade Center in New York, the Pentagon in Arlington, Virginia and Flight 93, the Federal Bureau of Investigation (FBI) has issued several warnings concerning the potential for additional terrorist attacks within the United States. The threat of maritime attacks is real as evidenced by the October 2002 attack on a tank vessel off the coast of Yemen and the prior attack on the USS COLE. These attacks manifest a continuing threat to U.S. assets as described in the President's finding in Executive Order 13273 of August 21, 2002 (67 FR 56215, September 3, 2002) that the security of the U.S. is endangered by the September 11, 2001 attacks and that such disturbances continue to endanger the international relations of the United States. *See also Continuation of the National Emergency with Respect to Certain Terrorist Attacks*, (67 FR 58317, September 13, 2002); *Continuation of the National Emergency With Respect To Persons Who Commit, Threaten To Commit, Or Support Terrorism*, (67 FR 59447, September 20, 2002). The U.S. Maritime Administration (MARAD) in Advisory 02-07 advised U.S. shipping interests to maintain a heightened state of alert against possible terrorist attacks. MARAD more recently issued Advisory 03-03 informing operators of maritime interests of increased threat possibilities to vessels and facilities and a higher risk of terrorist attacks to the transportation community in the United States. The ongoing hostilities in Afghanistan and Iraq have made it prudent for U.S. ports and waterways to be on a higher state of alert because the Al Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

Therefore, the Coast Guard is establishing an RNA within the inland rivers of the Eighth Coast Guard District in order to safeguard vessels, ports and waterfront facilities from sabotage or terrorist acts. This RNA applies to barges loaded with CDCs operating on the Mississippi River above mile 235.0, Above Head of Passes, including all its tributaries; the Atchafalaya River above mile 55.0 including the Red River; the Ohio River and all its tributaries; and the Tennessee River from its confluence with the Ohio River to mile zero on the Mobile River and all other tributaries

between these two rivers. This RNA affects vessels that transport CDCs that if used as a weapon of terrorism could result in substantial loss of life, property and environmental damage, and grave economic consequences. This rulemaking requires operators, as defined in this rule, of barges loading or loaded with CDCs within the RNA to periodically report their position and other specified information to the Inland River Vessel Movement Center (IRVMC) for protection against sabotage and terrorist acts.

If additional information warrants modifying or amending this rule, we will revise the rule and publish the revision in the **Federal Register**.

Discussion of Rule

This rule applies to operators of a barge loaded with or loading CDCs, within the regulated area. This rule does not apply to operators of "empty" barges within the RNA. The terms barge, certain dangerous cargoes (CDCs), downbound, CDC barge, Eighth Coast Guard District, empty, final destination, gas free, loaded, operator, and upbound are defined in the regulatory section of this rule. The operator, of a CDC barge(s) loaded with or being loaded with CDCs must report to the IRVMC specific information under the following conditions: 4 hours prior to loading a barge(s) with CDCs; 4 hours prior to dropping off a CDC barge(s) in a fleeting area; 4 hours prior to picking up a CDC barge(s) from a fleeting area; 4 hours prior to getting underway with a CDC barge(s); upon point of entry into the RNA with a CDC barge(s); at designated reporting points in Table 165.T08-019(f); when the estimated time of arrival (ETA) to a reporting point varies by 6 hours from the previously reported ETA; any significant deviation from previously reported information; upon arrival at the "final" destination with a CDC barge(s), if within the RNA; upon departing the RNA with a CDC barge(s); and when directed by the IRVMC.

Each report to the IRVMC must contain all the information items specified in Table 165.T08-019(g). Reports must be made to the IRVMC, either by telephone toll free to (866) 442-6089, by fax toll free to (866) 442-6107, or by e-mail to irvmc@cgsstl.uscg.mil.

Deviation from this rule is prohibited unless specifically authorized by the Commander, Eighth Coast Guard District or designated representatives. In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

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. The operational reporting requirements of the RNA are minimal, transitory and necessary to provide immediate, improved security for the public, vessels, and U.S. ports and waterways. The requirements do not alter normal barge cargo loading operations or transits. Additionally, this RNA is temporary in nature and the Coast Guard may issue a NPRM as it considers whether to make this rule permanent. The minimal hardships that may be experienced by persons or vessels, as a result of this rule, are necessary to the national interest in protecting the public, vessels, and vessel crews from the devastating consequences of acts of terrorism, and from sabotage or other subversive acts, accidents, or other causes of a similar nature.

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. This rule will affect the following entities, some of which may be small entities: the operators of barges intending to load CDCs and transit on inland waterways with CDC barge(s) within the Eighth Coast Guard District. This RNA will not have a significant economic impact on a substantial number of small entities because this rule does not require any alteration of barge operations or transits. The operational communications required by this RNA are transitory in nature and do not require operators to obtain new equipment.

If you are a small business entity and are significantly affected by the regulation please contact LT Karrie C.