

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander (m), Ninth Coast Guard District at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Terrorist attacks on September 11, 2001, inflicted catastrophic human casualties and property damage. These attacks highlighted terrorists' ability and desire to utilize numerous methods to increase their opportunities to successfully carry out their mission. This includes airborne, waterborne, and land-based threats. This approach maximizes the destructive possibility of their 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 United States is still endangered by terrorist related disturbances in the international relations of the United States that have existed since the terrorist attacks on the United States of September 11, 2001. *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) issued Advisory 02-07, which recommends that U.S. shipping interests 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 the war with Iraq underscore the

prudence of U.S. ports and waterways being on a higher state of alert. The heightened state of alert is further supported by declarations and the ongoing intent of the Al Qaeda organization and other similar organizations to conduct armed attacks on U.S. interests worldwide.

This RNA complements a parallel rule issued by the Eighth Coast Guard District on April 16, 2003. The purpose of these complementary rules is to create a consistent and seamless reporting system for the Western Rivers Inland Waterway System within the Eighth and Ninth Coast Guard Districts.

This RNA applies to barges loaded with CDCs operating on the Illinois Waterway System above mile 187.2 to the Chicago Lock on the Chicago River at mile 326.7 and to the confluence of the Calumet River and Lake Michigan at mile 333.5 of the Calumet River. The vessels affected by this RNA transport CDCs that, if used as a weapon of terrorism, could result in substantial loss of life, property and environmental damage, as well as grave economic consequences. This RNA requires operators, as defined in this rule, of barges loading or loaded with CDCs to periodically report their position and other specified information to the Inland River Vessel Movement Center (IRVMC).

If additional information warrants modifying or amending this rule, we will revise the rule and publish the revision in the **Federal Register**. We will also issue Broadcast Notices to Mariners regarding any such revision. This RNA is issued under authority contained in 33 U.S.C. 1226 and 50 U.S.C. 191.

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, Ninth 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 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.T09–

209(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); 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.T09–209(g). Reports must be made to the IRVMC, either by telephone toll free to (866) 442–6089, by fax to (866) 442–6107, or by e-mail to irvmc@cgstl.uscg.mil.

Deviation from this rule is prohibited unless specifically authorized by the Commander, Ninth Coast Guard District or his designated representative.

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 rule is temporary in nature and the Coast Guard may issue a NPRM as it considers whether to make this rule permanent. Any hardships experienced by persons or vessels 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