

collects adequate information from the towing vessel operator and we are working with the Army Corps of Engineers to access the information. However in the interim, we are proposing to continue to use locks as reporting points.

Another suggestion was made to reduce the reporting requirements to a single report every 24 hours during periods of lower Maritime Security (MARSEC) levels, and, if the MARSEC level rose, the reporting requirements would be increased. However, this would not satisfy the Coast Guard's need to maintain constant maritime domain awareness for defined areas along the river systems, nor will it provide us timely information if the MARSEC level is increased due to a threat.

Justification of the Regulation. We received two comments concerning the justification for the regulation. One questioned why we implemented the RNA when we did; one questioned the justification for the timing of the RNA because we lowered the Maritime Security Condition (MARSEC) level the day the temporary RNA was effective; and another one questioned why the normal regulatory process of a notice of proposed rulemaking was not used. The effective date of the RNA and the change in the MARSEC level were coincidental. As a component of the Department of Homeland Security, the Coast Guard has a responsibility to ensure the safety and security of our ports and waterways. The temporary RNA and the proposed RNA will allow the Coast Guard to maintain constant maritime domain awareness on the inland rivers.

Response to Comments Summary

In response to these comments the Coast Guard is (1) removing the requirement to report 4 hours prior to loading a CDC barge in the RNA; (2) removing the requirement of reporting 4 hours prior to dropping off a CDC barge at a fleeting area; (3) establishing reporting requirements specifically for fleeting area managers; (4) considering and approving requests for alternative methods of meeting reporting requirements; (5) amending or removing some reporting points that were in unsafe areas; (6) exploring a reduction in checkpoints on pooled rivers by using Army Corps of Engineers data from L&Ds; (7) researching existing systems employed by affected

companies with the possibility of the integration of these systems; and (8) researching technology for automatic tracking of CDC barges.

Discussion of Proposed Rule

The Coast Guard proposes to establish a regulated navigation area for 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 proposed rule applies to: (1) Towing vessel operators responsible for one or more CDC barges within the regulated area; and (2) fleeting area managers responsible for CDC barges in a fleeting area. The terms barge, certain dangerous cargoes (CDCs), downbound, CDC barge, Eighth Coast Guard District, towing vessel operator, and upbound are defined in the regulatory section of this proposed rule.

Towing vessel operators responsible for one or more CDC barges would be required to report specific information, to the IRVMC, under the following conditions: (1) Upon point of entry into the RNA with one or more CDC barges; (2) 4 hours prior to originating a voyage within the RNA with one or more CDC barges; (3) upon dropping off one or more CDC barges at a fleeting area or facility; (4) upon picking up one or more additional CDC barges from a fleeting area or facility; (5) at designated reporting points in table 165.830(e); (6) when estimated time of arrival (ETA) to a reporting point varies by 6 hours from the previously reported ETA; (7) any significant deviation from previously reported information; (8) upon departing the RNA with one or more CDC barges; and (9) when directed by the IRVMC.

Fleeting area managers would be required to report specific information to the IRVMC under the following conditions: (1) Once daily, report all CDC barges within the fleeting area; (2) upon moving a CDC barge from one fleeting area to another or to a facility by fleeting towing vessels; (3) any significant deviation from previously reported information; and (4) when directed by the IRVMC.

A company representative or dispatcher may report the required information to the IRVMC on behalf of

the towing vessel operator or fleeting area manager.

Each report made to the IRVMC, by a towing vessel operator or fleeting area manager, must contain all the information items specified in tables 165.830(f) and 165.830(g), respectively.

Reports must be made to the IRVMC, either by telephone to (866) 442-6089, by fax to (866) 442-6107, or by e-mail to irvmc@cgsstl.uscg.mil. A reporting form and e-mail link is available at <http://www.uscg.mil/d8/Divs/M/IRVMC.htm>.

The Coast Guard proposes to consider and approve alternative reporting methods to meet any reporting requirements if: (1) The request for the alternative is submitted in writing to Commander, Eighth Coast Guard District (m), Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans LA 70130; and (2) the alternative provides an equivalent level of reporting to that which would be achieved by the Coast Guard with the required check-in points.

Deviation from this rule is prohibited unless specifically authorized by the Commander, Eighth Coast Guard District or designated representatives.

Regulatory Evaluation

This proposed 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).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. We present this Regulatory Evaluation for the purposes of information.

Evaluation. The regulatory baseline for this rule is the temporary rule. The cost for complying with the rule will differ depending on the means used to make a report to the IRVMC and the type of report, either an initial report or an update. The cost of the rule presented below is based on the average number of reports received by the IRVMC in April 2003 and May 2003.