

DATES: This rule is effective from 4 a.m. on July 12, 2003 until 8 p.m. on January 11, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [COTP New Orleans-03-024] and are available for inspection or copying at Marine Safety Office New Orleans, 1615 Poydras Street, New Orleans, Louisiana, 70112 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (LT) James Fogle, Marine Safety Office New Orleans, at (504) 589-4222.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this rule. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM and, under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to protect vessels and mariners from the hazards associated with the weekly upbound and downbound transit of the C/S CONQUEST under the Entergy Corporation power cable, Lower Mississippi River (LMR), mile marker 89.2, Above Head of Passes, New Orleans, Louisiana.

Background and Purpose

The Captain of the Port New Orleans is establishing a temporary safety zone on the LMR beginning at mile 88.1 and ending at 90.4, Above Head of Passes, extending the entire width of the river. This safety zone is needed to protect persons and vessels from the potential safety hazards associated with the weekly upbound and downbound transit of the C/S CONQUEST beneath the Entergy Corporation power cable located at mile 89.2 LMR. The C/S CONQUEST has an air draft of 208 feet and is home ported in New Orleans at the Julia Street Wharf, LMR, mile marker 95.3, Above Head of Passes, New Orleans, Louisiana. The Entergy Corporation power cable is 212.6 feet North American Vertical Datum (NAVD) at the center of the Lower Mississippi River and increases in height to a maximum of 366.4 feet NAVD on the East bank and a maximum of 361.1 feet NAVD on the West bank. As the C/S CONQUEST needs an air gap of 14 feet between it and the cable to prevent arcing, the vessel must maneuver within

about 400 to 600 feet of the East bank or within about 400 to 700 feet of the West bank to safely transit under the Entergy Corporation power cable. Vessels transiting this area may restrict the maneuverability of the C/S CONQUEST through those safe passage lanes and possibly result in harm to life or damage to the cruise ship, the power cable, or nearby vessels.

This rule will be enforced from 3:15 a.m. until 3:45 a.m. and 6 p.m. to 6:30 p.m. every Sunday between July 12, 2003 and January 11, 2004. These periods of enforcement are based on the predicted cruise schedule for the C/S CONQUEST and are subject to change. The Captain of the Port New Orleans will inform the public via broadcast notice to mariners of the enforcement periods for the safety zone.

The rule also prohibits vessels from anchoring in the New Orleans Emergency Anchorage or the New Orleans General Anchorage below mile marker 90.4, which is the location of Chalmette Slip and 350 yards upriver of the Belle Chasse Launch Service's West Bank Dock. These vessels could restrict the maneuverability of the C/S CONQUEST through safe passage lanes and possibly result in harm to life or damage to the cruise ship, the power cable, or nearby vessels. Vessels anchored within the New Orleans Emergency Anchorage are already required by 33 CFR § 110.195(a)(16) to obtain permission from the Captain of Port New Orleans prior to anchoring. The New Orleans General Anchorage is from mile 90.1 to 90.9 LMR with only 0.3 miles of the anchorage affected by this temporary final rule. This prohibition is effective two hours prior to the arrival and departure of the C/S CONQUEST or until it safely passes under the crossing.

Except as described in this rule, all vessels are prohibited from entering, anchoring or transiting within the zone during the announced enforcement periods unless authorized by the Captain of the Port New Orleans or a designated representative. Vessels may request authorization to transit through the safety zone by contacting the Captain of the Port New Orleans or a designated representative. Moored vessels are permitted to remain within the safety zone.

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). The Coast Guard expects 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. The Coast Guard has met with members of local maritime industry including Carnival Cruise Lines, Entergy, the New Orleans Port Commission, pilots association, owners of water front facilities located within or adjacent to the zone as well as agents and shipping companies to discuss safety concerns associated with the transit and measures to reduce the impact of the safety zone on the local maritime community.

This rule will only affect maritime traffic for short periods of time. The impact on routine navigation is expected to be minimal as the zone will only be in effect for two hours, twice each week. Furthermore, the Captain of the Port New Orleans or a designated representative may permit movements within the zone that do not impact the passage of the C/S CONQUEST, further limiting the impact of the zone.

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 owners or operators of vessels intending to transit or remain at anchor within the safety zone from mile marker 88.1, to mile marker 90.4 LMR, while the C/S CONQUEST is transiting this area upbound and downbound. This safety zone will not have a significant economic impact on a substantial number of small entities because this rule will be in effect for only one hour, twice each week. Furthermore, the Captain of the Port New Orleans or a designated representative may permit movements within the zone that do not impact the passage of the C/S CONQUEST, further limiting the impact of the zone.