

Par. 12. A new sentence is added at the end of § 24.135(a) to read as follows:

§ 24.135 Wine premises alternation.

(a) *General.* * * * If a proprietor of a bonded wine cellar or winery wishes to use all or a portion of such premises alternately as a volatile fruit-flavor concentrate plant or vice-a-versa, the proprietor must comply with the requirements of §§ 18.40 through 18.43 of this title.

* * * * *

Signed: March 6, 2001.

Bradley A. Buckles,
Director.

Approved: March 14, 2001.

Timothy E. Skud,
Acting Deputy Assistant Secretary
(Regulatory, Tariff and Trade Enforcement).
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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01-01-041]

RIN 2115-AE47

Drawbridge Operation Regulations: Jamaica Bay and connecting waterways, NY.

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the drawbridge operation regulations which govern the Beach Channel Railroad Bridge, at mile 6.7, across Jamaica Bay in New York. This temporary change to the drawbridge operation regulations will allow the bridge owner to require a twenty-four hours advance notice for bridge openings from 6 a.m. to 7 p.m., on each Monday, Wednesday and Friday, from May 18, 2001 through November 30, 2001. This action is necessary to facilitate necessary maintenance at the bridge.

DATES: This rule is effective on May 18, 2001 through November 30, 2001.

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 (CGD01-01-041) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Schmied, Project Officer, First Coast Guard District, (212) 668-7195.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 6, 2001, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Jamaica Bay and Connecting Waterways, New York, in the **Federal Register** (66 FR 18221). We received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held. Pursuant to 5 U.S.C. 553, good cause exists for making this regulation effective in less than 30 days after publication in the **Federal Register**. The Coast Guard discussed the advance notification periods with all known waterway users likely to be impacted by this change in operating regulations prior to publication of the notice of proposed rulemaking and none objected. In fact, local waterway users have voluntarily complied with the advance notice requirement since April 30, 2001. The NPRM specified that we anticipated that the final rule would become effective less than 30 days following publication. Any delay encountered in this regulation's effective date would be unnecessary and contrary to the public interest since immediate action is needed to perform this lengthy project during the spring, summer and fall months when ambient air temperatures and environmental conditions permit effective sand blasting and painting.

Background and Purpose

The Beach Channel Railroad Bridge, at mile 6.7, across Jamaica Bay has a vertical clearance of 26 feet at mean high water and 31 feet at mean low water. The existing regulations require the draw to open on signal at all times.

The bridge owner, the New York City Transit Authority, asked the Coast Guard to temporarily change the drawbridge operation regulations to require at least a twenty-four hours advance notice be given to open the Beach Channel Railroad Bridge for thirty-one weeks on each Monday, Wednesday and Friday in order to facilitate structural repairs and painting at the bridge. The Coast Guard contacted all known waterway users to advise them of the proposed closures. No objections or negative comments were received in response this closure.

Discussion of Comments and Changes

The Coast Guard received no comments in response to the notice of proposed rulemaking. The effective date

of this final rule will be changed to the date of signature of this final rule as the weekend closure dates contemplated in the NPRM have already passed. This change will reduce rather than enlarge the duration of the temporary final rule.

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 Transportation (DOT) (44 FR 11040; February 26, 1979). This conclusion is based on the fact that the bridge will still continue to open daily for navigation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612) we considered whether this rule would have a significant economic impact on a substantial number of small entities. "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 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 conclusion is based on the fact that the bridge will still continue to open for navigation daily.

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

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (32)(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this final rule.

Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have 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.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. From May 18, 2001 through November 30, 2001, section 117.795 is temporarily amended, by adding a new paragraph (e), to read as follows:

§ 117.795 Jamaica Bay and connecting waterways.

* * * * *

(e) The Beach Channel Railroad Bridge, at mile 6.7, shall open on signal after at least a twenty-four hours advance notice is given from 6 a.m. to 7 p.m., on each Monday, Wednesday, and Friday, from May 18, 2001 through November 30, 2001. Advance notice may be given by calling the number posted at the bridge.

Dated: May 18, 2001.

Gerald M. Davis,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01-00-248]

RIN 2115-AA97

Safety Zone: Triathlon, Ulster Landing, Hudson River, NY

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent safety zone for the annual Hudson Valley Triathlon swim on the Hudson River. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of the Hudson River.

DATES: This rule is effective July 2, 2001.

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 (CGD01-00-248) and are available for inspection or copying at room 204, Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, NY 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lieutenant M. Day, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4012.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 2, 2001, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone: Triathlon, Ulster Landing, Hudson River, NY in the **Federal Register** (66 FR 13030). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

The Coast Guard is establishing a permanent safety zone for the annual Hudson Valley Triathlon swim on the Hudson River. The safety zone encompasses all waters of the Hudson River, in the vicinity of Ulster Landing, bound by the following points: 42°00'03.7"N, 073°56'43.1"W; thence to 41°59'52.5"N, 073°56'34.2"W; thence to 42°00'15.1"N, 073°56'25.2"W; thence to 42°00'05.4"N, 073°56'41.9"W (NAD 1983); thence along the shoreline to the point of beginning.

The safety zone is effective annually from 6 a.m. until 9 a.m. on the first Sunday after July 4th. The safety zone prevents vessels from transiting a portion of the Hudson River. It is needed to protect swimmers and boaters from the hazards associated with 500 swimmers competing in a confined area of the Hudson River. Recreational vessels can still transit to the east of the zone during the event and will not be precluded from mooring at or getting underway from recreational piers in the vicinity of the zone. Commercial vessels will be precluded from transiting the area because the safety zone encompasses about 800 yards of Barrytown Reach and there is no viable alternative route. No vessel may enter the safety zone without permission from the Captain of the Port, New York.

Special Local Regulations have been published for this event in 33 CFR 100.121 for 7 a.m. to 9 a.m. on the same date. The location of this event was moved 3.5 nautical miles north in the summer of 2000 to the new location in the northern area of Barrytown Reach. A Temporary final rule was required for the 2000 event. This new location encompasses about 800 yards of Barrytown Reach and is about 1,000 yards smaller than the permanent area in 33 CFR 100.121.

This safety zone covers the minimum area needed and imposes the minimum restrictions necessary to ensure the protection of all swimmers and vessels. Public notifications will be made prior to the event via the Local Notice to Mariners.